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Monday
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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Presidential Documents

Title 3—

The President

Proclamation 6722 of September 20, 1994

National Historically Black Colleges and Universities Week, 1994

By the President of the United States of America

A Proclamation

From Spelman to Fayetteville State, from Talladega to Texas Southern, historically black colleges and universities continue to play an essential role in our Nation's heritage. For too many years in America, these schools were the only institutions of higher learning open to young African Americans. With their steadfast dedication to excellence in education, these proud schools help to nurture our country's greatest resource—the intelligence and imagination of our youth.

Historically black colleges and universities quickly earned distinguished reputations, both for the quality of their scholarship and for their commitment to guaranteeing equal opportunity for all. Their invaluable contributions are evident in the countless students, past and present, who have benefitted from the rich educational experience these institutions provide. Their graduates have become accomplished participants in every aspect of society, have raised new generations to respect the values of knowledge and discovery, and, with the unique perspective of their schooling, have immeasurably enriched the lives of their communities and of our entire Nation.

As we pause this year to recognize the continuing importance of these outstanding schools, we have new cause for optimism that such academic communities will remain vibrant and enduring leaders in American education. On November 1, 1993, I was proud to sign an Executive Order committing greater Federal attention to strengthening historically black colleges and universities. This order establishes a commission comprised of representatives from those schools, along with business leaders and other educational officials. Guided by the high standards set by our Goals 2000: Educate America Act, this commission will explore new ways to enhance the infrastructure of these institutions and to facilitate future planning and development. Working together, we can prepare these colleges and universities, some of America's finest, to meet the challenges of the twenty-first century and beyond.

To heighten awareness of that crucial goal and to recognize the critical role that historically black colleges and universities have played in the lives of African Americans throughout the land, the Congress, by Senate Joint Resolution 21, has designated the week beginning September 18, 1994, as "National Historically Black Colleges and Universities Week" and has authorized and requested the President to issue a proclamation in observance of this commemoration.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week of September 18 through September 24, 1994, as National Historically Black Colleges and Universities Week. I call upon the people of the United States, including government officials, educators, and volunteers, to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of September, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 94-23901
Filed 9-22-94; 3:02 pm]
Billing code 3195-01-P

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Part 11

Prices and Availability of Federal Register Publications

AGENCY: Administrative Committee of the Federal Register (ACFR).

ACTION: Final rule with request for comments.

SUMMARY: The Administrative Committee of the Federal Register (Administrative Committee) announces changes to the prices charged for **Federal Register** publications. The price changes apply to annual subscription rates for the daily **Federal Register**, the Code of Federal Regulations, the Weekly Compilation of Presidential Documents, the monthly Federal Register Index and monthly LSA (List of CFR Sections Affected), as well as to the single issue price of the daily **Federal Register**. These price changes are necessary to more accurately reflect the Government's cost of production and distribution of these publications.

DATES: The changes to 1 CFR 11.2, 1 CFR 11.6, 1 CFR 11.7, and 1 CFR 11.8 are effective October 26, 1994. The changes to 1 CFR 11.3 are effective January 1, 1995.

Comments will be accepted until January 1, 1995.

ADDRESSES: Comments may be sent to the Office of the Federal Register by the following methods: U.S. Mail: Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408. Private delivery services or messengers: Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC 20002. Fax: 202–523–6866. Electronic mail on FREND (Federal Register Electronic News Delivery service): 202–275–1538 or 202–275–0920.

FOR FURTHER INFORMATION CONTACT: Michael White at 202–523–4534.

SUPPLEMENTARY INFORMATION: The Administrative Committee of the Federal Register, which establishes prices for Federal Register publications, has determined that it must make price adjustments to certain **Federal Register** publications to accurately reflect costs of production and distribution. Price adjustments apply to subscriptions and to single issues.

On September 1, 1992, the Administrative Committee announced that it was adopting a policy of full cost recovery to ensure that revenues from subscriptions and single issue sales would keep pace with increased costs attributable to printing and labor expenses at the Government Printing Office (GPO) plant and prior postal rate increases (57 FR 40024). The Administrative Committee resolved to adjust prices over a period of several years and to conduct an annual review to determine the rate of increase necessary to gradually bring prices into alignment with costs. On December 10, 1993, the Administrative Committee further adjusted prices of **Federal Register** publications pursuant to the annual pricing review (58 FR 64871).

After reviewing the Government Printing Office's most current analysis of its production and distribution costs, the Administrative Committee has determined that further incremental increases in the prices to be charged for the paper editions of **Federal Register** publications are necessary to achieve full cost recovery. The increased prices reflected in this final rule are primarily attributable to labor charges, equipment costs and prospective postal rate increases for second class mail. Changes to prices of the microfiche editions of the **Federal Register** and the Code of Federal Regulations (CFR) are also included in this final rule. Production of the microfiche editions of these publications is subject to a competitive bidding process that determines the prices to be charged. While overall subscription prices for microfiche copies have increased, prices of individual copies have decreased or remained the same.

The following rates are effective as of October 26, 1994. The annual subscription rates for the **Federal Register** paper edition are increased to $494, or $544 for a combined **Federal Register**, Federal Register Index and LSA (List of CFR Section Affected) subscription. The annual subscription price of the microfiche edition of the **Federal Register**, including the Federal Register Index and LSA, is increased to $433. The price for single copies of the daily **Federal Register** is increased to $8 for the paper edition. The annual subscription price for the Federal Register Index is increased to $24. The annual subscription price for the monthly LSA is increased to $26. The annual subscription rates for the Weekly Compilation of Presidential Documents are increased to $75 by non-priority mail, or $132 by first-class mail. The price of an individual copy is increased to $3.

As of January 1, 1994, the annual subscription rates for a full set of the Code of Federal Regulations are increased to $883 for the paper edition and $264 for the microfiche edition. The price of a single volume in microfiche form is reduced to $1.

In the 1992 and 1993 price change rule documents, the Administrative Committee invited public comment on the pricing structure of Federal Register publications. Three comments were received regarding the December 10, 1993 rule. Two commenters inquired whether unofficial Federal Register data formerly available as ACFR publications on magnetic tape would instead be distributed under the auspices of the Superintendent of Documents. This unofficial Federal Register data derived from the printing data base remains available for purchase from GPO in compressed diskette form as a GPO reproducible product under the authority of 44 U.S.C. chapter 17. One commenter inquired about implementation of the Government Printing Office Electronic Information Access Enhancement Act of 1993 (GPO Access), 44 U.S.C. 4101, and asked when the official online edition of the **Federal Register** would be available and how much it would cost to subscribe. The online **Federal Register**, including full text and graphics, began daily service on the GPO Access System's Wide Area Information Server (WAIS) via the Internet on June 8, 1994. Subscription information is contained on page II of the daily **Federal Register** or by telnet to wais.access.gpo.gov (log in as newuser (all lower case); no password is required). Dial-up users

(SWAIS service) should use communications software and modem to obtain subscription information at 202–512–1661 (log in as wais (all lower case); no password is required). Complete price schedules, including discounts for multiple workstations, are available by calling GPO at 202–512–1530 or by fax at 202–512–1262. Prices are subject to continuous review and will be adjusted periodically based upon GPO's calculation of the incremental cost of dissemination.

In addition to the price changes contained in this document, the Administrative Committee is updating § 11.2 to reflect the availability of the online **Federal Register**. The Committee has granted authority to the Superintendent of Documents to price the online **Federal Register** for the first six months of operation to allow GPO to collect actual cost data. The Administrative Committee continues to welcome comments on Federal Register publications and prices.

The Administrative Committee has determined that publication of a proposed rule is unnecessary. The Administrative Committee has authority under 44 U.S.C. 1506 to set the prices to be charged for **Federal Register** subscriptions and individual copies. To the extent possible, the Administrative Committee sets prices to recover only the actual cost of producing and distributing Federal Register publications. The revised prices are based on an in-depth cost study conducted for the Administrative Committee by the Government Printing Office. Because only actual costs were considered in setting the revised price schedule based on an in-depth cost study, the Administrative Committee has determined that there is good cause for promulgating this final rule without a prior notice of proposed rulemaking as permitted by 5 U.S.C. 553(b)(B).

This regulatory action has been reviewed by the Office of Management and Budget, Office of Information and Regulatory Affairs, under Executive Order 12866. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to rate increases necessary to recover the costs to the Government of printing and distributing these publications.

List of Subjects in 1 CFR Part 11

Federal Register publications, Government publications, Organization and functions (Government agencies), Subscription rates.

For the reasons discussed in the preamble, the Administrative Committee of the Federal Register amends part 11 of chapter I of title 1 of the Code of Federal Regulations as set forth below:

PART 11—SUBSCRIPTIONS

1. The authority citation for part 11 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954–1958 Comp., p. 189.

2. Section 11.2 is revised to read as follows:

§ 11.2 Federal Register.

(a) Daily issues are furnished by mail to subscribers for $494 per year in paper form. A combined subscription consisting of the daily issues, the monthly Federal Register Index, and the monthly LSA (List of CFR Sections Affected) is furnished by mail to subscribers for $544 per year in paper form or $433 per year in microfiche form. Six month subscriptions to the paper and microfiche editions are also available at one-half the annual rate. Limited quantities of current or recent issues may be obtained for $8 per copy in paper form or $1.50 per copy in microfiche form.

(b) The online edition of the **Federal Register** is available by subscription at prices determined by the Superintendent of Documents under the general direction of the Administrative Committee.

3. Section 11.3 is revised to read as follows:

§ 11.3 Code of Federal Regulations (CFR).

A complete set is furnished by mail to subscribers for $883 per year for the bound, paper edition; $264 per year for the microfiche edition. Individual volumes of the bound, paper edition of the CFR are sold at prices determined by the Superintendent of Documents under the general direction of the Administrative Committee. The price of an individual volume in microfiche form is $1 per copy.

4. Section 11.6 is revised to read as follows:

§ 11.6 Weekly Compilation of Presidential Documents.

Copies in paper form are furnished to subscribers for $75 per year by non-priority mail or $132 per year by first-class mail. The price of an individual copy in paper form is $3

5 Section 11 7 is revised to read as follows:

§ 11.7 Federal Register Index.

The annual subscription price for the monthly Federal Register Index, purchased separately, in paper form, is $24

6. Section 11.8 is revised to read as follows:

§ 11.8 LSA (List of CFR Sections Affected).

The annual subscription price for the monthly LSA (List of CFR Sections Affected), purchased separately, in paper form, is $26.

Trudy Huskamp Peterson,

Chairman.

Michael F. Di Mario,

Member.

Rosemary Hart,

Member.

Janet Reno,

Attorney General.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 94–23706 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 318

[Docket No. 93–118–2]

Interstate Movement of Carambola from Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing the fruit of carambola to be moved interstate from Hawaii. As a condition of movement, the fruit of carambola must undergo prescribed treatment for fruit flies under the supervision of an inspector of Plant Protection and Quarantine, Animal and Plant Health Inspection Service. This action allows the interstate movement from Hawaii of this fruit while continuing to provide protection against the spread of injurious plant pests from Hawaii to other parts of the United States.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Mr Frank Cooper, Senior Operations Officer, or Mr. Peter Grosser, Senior Operations Officer, Permit Unit, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8645

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetable regulations (contained in 7 CFR 318 13 through 318.13–17 and referred to below as the regulations) govern the

movement of raw and unprocessed fruits and vegetables, cut flowers, rice straw, mango seeds, and cactus plants and cactus parts, from Hawaii into or through the continental United States, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, or any other territory or possession of the United States. Under the regulations, any such movement is defined as "interstate movement."

Of the articles governed by the regulations, some are absolutely prohibited interstate movement. Others are prohibited such movement if they fail to meet certain qualifying criteria. Before the effective date of this final rule, the interstate movement of carambola from Hawaii was prohibited because of the risk that it could spread injurious insects from Hawaii to other parts of the United States.

On March 21, 1994, we published in the **Federal Register** (59 FR 13256–13257, Docket No. 93–118–1) a proposal to allow the fruit of carambola (*Averrhoa carambola*) to be moved interstate from Hawaii under specified conditions. One of the proposed conditions for interstate movement was that the fruit be treated with a specified cold treatment. This treatment has been determined to be effective against the insects in Hawaii that attack carambola—i.e., the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Bactrocera cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

We solicited comments concerning our proposed rule for 60 days ending May 20, 1994. We received six comments by that date. The comments were from a municipality in Hawaii, an agricultural association, and other members of the public.

Five of the commenters supported the proposal as written. One commenter expressed concerns regarding the testing done on the prescribed treatment. We discuss below each of the issues raised by the commenter.

The commenter stated that it appeared that the research done to test a cold treatment against insect pests of carambola did not include phytotoxicity tests, or the impact of the proposed treatment upon the quality of Hawaiian carambola. We are making no changes based on this comment. The Agricultural Research Service (ARS) of the U.S. Department of Agriculture conducted tests on a preliminary basis in conjunction with the Hawaii carambola industry to determine whether the fruit would tolerate the proposed cold treatment. Fruit of carambola was stored at 1 1±0.6 °C for 12 days. No adverse impact on fruit quality or marketability was observed, which follows the trend of previous observations by Campbell,[1] Campbell *et al.*,[2] and Miller *et al.*,[3] showing that the fruit of carambola tends to tolerate refrigeration relatively well.

Notwithstanding the tests discussed above, it should be emphasized that all quarantine treatments may affect fruit quality in some way. For this reason, the APHIS Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference into the regulations at 7 CFR 300.1, states that all treatments are applied at the importer's risk, and that PPQ cannot be held responsible for loss or damage as a result of any prescribed treatments.

The commenter also stated that the study did not specify the cultivar of fruit used for testing. According to the commenter, sweet and tart varieties of carambola may have very different host characteristics, and fruit size may have an impact upon the application of the treatment. We are making no changes based on this comment. In its cold treatment tests, ARS used both "sweet" and "tart" cultivars. Nel showed that temperatures and exposure times required to disinfest Mediterranean fruit fly from different host fruits remained constant regardless of host fruit.[4] This "generic" approach to cold treatments has been accepted for other fruit fly species, including Mexican fruit fly, *A. ludens* (Loew), and Queensland fruit fly, *Bactrocera tryoni* Froggatt.

With regard to the effect of fruit size on cold treatment application, ARS made the same observation as Gould and Sharp, who concluded that "* * * in terms of total treatment time, there is a small difference in cool-down time between a large and a small carambola."[5] In other words, fruit size is not an important consideration in treatment application. Additionally, APHIS closely regulates treatments by means of temperature-monitoring devices, and the treatment time is not considered to have begun until the fruit has reached the required treatment temperature.

The commenter stated that the artificial infestation procedure used in the study may have placed stress on the fruit fly larvae, making them more susceptible to cold than would be wild flies in a natural infestation. According to the commenter, the large number of larvae artificially raised on the small amount of fruit used in the study could have produced overcrowding effects not representative of field conditions.

We are making no changes based on these comments. Because of the difficulty in obtaining infestation through adult oviposition, ARS turned to artificial infestation methods. The most successful artificial infestation method used by ARS did not attempt to rear the insects on carambola, except during the cold treatment period, during which eggs and larvae were reared on both treated and control carambola. Following the treatment period, the eggs and larvae were removed from both the treated and control carambola and were placed onto a moist larval diet. This significantly increased survival of eggs and larvae from the controls, and provided optimum conditions for survival to occur among the treated eggs and larvae. This method biased the tests toward the insects' survival, rather than toward mortality.

With regard to the commenter's statement regarding the number of fruit flies raised on carambola, ARS concluded that the effects of the treatment could not be attributed to infestation load. ARS reported that, although the results were erratic, occasional large numbers of fruit flies, greatly exceeding the "normal" field infestations, were reared from artificially infested carambola controls. From this, ARS concluded that the effects of the treatment could not be attributed to infestation load. ARS indicated that it chose the optimum infestation methods that provided insect recovery while testing the quarantine security limits of the treatment.

The commenter also stated that field populations of flies might naturally be better adapted to surviving the cold than the laboratory-reared flies used. We are making no changes based on this comment. ARS concluded that there is no evidence that fruit flies from different elevations in Hawaii respond differently to cold treatments. According to ARS, this is consistent with previous testing that revealed no evidence that Caribbean fruit flies from their northernmost range in Florida respond differently to cold treatments of carambola.

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[1] Campbell, C. A. 1987. Carambola Fruit Development and Storage in Florida. M.S. thesis, University of Florida, Gainesville, FL.

[2] Campbell, C. A., D. J. Huber and K. E. Koch. 1987 Postharvest Response of Carambolas to Storage at Low Temperatures. Proc. Fla. State Hort. Soc. 100: 272–275.

[3] Miller, W. R., R. E. McDonald and M. Nisperos-Carriedo. 1991 Quality of "Arkin" Carambolas with or without Conditioning Followed by Low-Temperature Quarantine Treatment. Proc. Fla. State Hort. Soc. 104: 118–122

[4] Nel, R. G. 1936. The Utilization of Low Temperatures in the Sterilization of Deciduous Fruit Infested with the Immature Stages of the Mediterranean Fruit Fly, *Ceratitis capitata* (Wiedemann) Sci Bull Dept Agric. S Afr No 155

[5] Gould, W. P and J. L. Sharp 1990. Cold-Storage Quarantine Treatment for Carambolas Infested with the Caribbean Fruit Fly (Diptera: Tephritidae) J Econ Entomol 83: 458–460

The commenter also stated that, although the tested treatment satisfied statistical security requirements, the fact that some fruit flies survived the treatment might indicate an unacceptable risk when the treatment is applied on a commercial scale. We are making no changes based on this comment. The data provided by ARS indicates that "probit 9" security (at least 99.968 percent insect mortality rate) was obtained by storage of carambola at 1.1±0.6 °C for 12 days.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. The shipping season for carambola from Hawaii is imminent. Making this rule effective immediately will allow interested producers and others in the marketing chain to benefit during this year's shipping season. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

We are allowing the fruit of carambola to move from Hawaii to other parts of the United States, under safeguards to prevent the introduction of injurious plant pests from Hawaii.

At present, there are approximately 5 to 10 farms in Hawaii that produce commercial quantities of carambola. These farms are small, family-owned, operations.

This rule will provide Hawaiian producers with access to markets in other parts of the United States. We estimate that approximately 1,500 to 3,000 pounds of fresh carambola fruit might be shipped from Hawaii to other parts of the United States annually. These shipments would have an estimated annual market value of between $3,000 and $9,800, depending on market prices. This represents less than .0002 percent of total Hawaiian agricultural production. The average annual market value of Hawaiian agricultural products totals about $600 million.

Small shippers of Hawaiian fruits and vegetables may also receive some benefits from this rule. We estimate that between 10 and 15 small entities will be able to increase marginally the volume of products shipped to other parts of the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0049.

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, 7 CFR parts 300 and 318 are amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, 167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 300.1, paragraph (a) is revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) The Plant Protection and Quarantine Treatment Manual, which was revised and reprinted November 30, 1992, and includes all revisions through August 1994, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

3. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, 167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 318.13–4 [Amended]

4. Section 318.13–4 is amended by adding, at the end of the section, the following: "(Approved by the Office of Management and Budget under control number 0579–0049)"

5. A new § 318.13–4h is added to read as follows:

§ 318.13–4h Administrative instructions; conditions governing the movement of the fruit of carambola from Hawaii.

(a) Subject to the requirements of §§ 318.13–3 and 318.13–4 and any other applicable regulations, the fruit of carambola may be moved interstate from Hawaii only if it is treated under the supervision of an inspector with a treatment authorized by the Administrator for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Bactrocera cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

(b) Treatments authorized by the Administrator are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

Done in Washington, DC, this 19th day of September 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–23638 Filed 9–23–94; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Parts 54 and 91

[Docket No. 93–070–2]

Inspection and Handling of Livestock for Exportation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations regarding inspection and handling of livestock for exportation to provide that United States origin health certificates include all test results, certifications, or other statements required by the foreign country of destination. This action is necessary to

ensure that the origin health certificate contains all of the information required by the foreign country of destination. We are also amending the requirements concerning scrapie for sheep and goats intended for export. This action clarifies the regulations and makes the terminology used in the export regulations consistent with that used in our domestic scrapie regulations. We are also revising one definition in the domestic scrapie regulations to make the definitions in those regulations consistent with each other.

EFFECTIVE DATE: October 26, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Najam Faizi, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 762, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8383.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 91, "Inspection and Handling of Livestock for Exportation" (referred to below as the regulations), prescribe conditions for exporting animals from the United States.

On May 13, 1994, we published in the **Federal Register** (59 FR 24979–24982, Docket No. 93–070–1) a proposal to amend the regulations by providing that United States origin health certificates include all test results, certifications, or other statements required by the foreign country of destination. We also proposed to amend the requirements concerning scrapie for sheep and goats intended for export, in order to clarify the regulations and make the terminology used in the export regulations consistent with that used in the domestic scrapie regulations. Additionally, we proposed to revise a definition in the domestic scrapie regulations to make the definitions in those regulations consistent with each other.

We solicited comments concerning the proposed rule for a 60-day comment period ending July 12, 1994. The one comment we received by that date supported the proposal as written.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis regarding the impact of this rule on small entities.

This rule requires that the origin health certificate required for animals exported from the United States include any test results, certifications, or other statements required by the foreign country of destination. It also revises the export regulations in 9 CFR part 91 to make them consistent with the regulations in 9 CFR parts 54 and 79 regarding the Voluntary Scrapie Flock Certification Program.

No issues were raised by public comments in response to the Initial Regulatory Flexibility Analysis we published in our proposal, and we identified no significant alternatives to this rule. We anticipate that the changes involving certification will have little or no impact on domestic exporters. In order for exporters to sell their animals abroad, the animals must meet the import requirements of the country of destination. Therefore, it is in the exporter's interest to ensure that those requirements are met. This rule change requires only that the origin health certificate include all test results, certifications, or other statements required by the country of destination. However, estimates of the number of animals and the number of small entities that will be affected, and the potential costs to exporters, are not available.

The changes to the regulations concerning sheep and goats with regard to scrapie will affect some producers. Under the regulations, sheep and goats from "source flock" premises may not be exported. Under the regulations prior to the effective date of this rule, source flock premises are considered those from which an animal affected with scrapie was moved within 18 months or less prior to showing signs of scrapie. Under this rule, the export of sheep and goats from source flocks continues to be prohibited, but the meaning of source flock is revised to mean a flock in which at least two animals were diagnosed as scrapie-positive animals at an age of 54 months or less, provided the second diagnosis was made within 60 months of the first, and provided the requirements of a flock plan have not been completed. This change makes the regulations more restrictive, and may increase the number of animals prohibited exportation because they originated in a source flock. However, as of July 1993, there were only five source flocks in the United States.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0020.

List of Subjects

9 CFR Part 54

Animal diseases, Goats, Indemnity payments, Sheep.

9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR parts 54 and 91 are amended as follows:

PART 54—CONTROL OF SCRAPIE

1. The authority citation for part 54 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 134a–134h; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 54.1 is amended by removing the definition of *scrapie-exposed animals* and by adding, in alphabetical order, a definition of *exposed animal* to read as follows:

§ 54.1 Definitions.

* * * * *

Exposed animal. Any animal which has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts. Limited contacts are contacts between animals that occur off the premises of the flock, and do not occur during or immediately after parturition for any of the animals involved. Limited contacts do not include commingling (when animals

concurrently share the same pen or same section in a transportation unit where there is uninhibited physical contact).

* * * * *

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

3. The authority citation for part 91 is revised to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

§ 91.3 [Amended]

4. In § 91.3, paragraph (a) is amended by removing "§ 161.2" in the fourth sentence and replacing it with "§ 161.3(k) of this chapter", and by adding a new sentence at the end of the paragraph to read as follows:

§ 91.3 General Export requirements.

(a) * * * "The origin health certificate shall include all test results, certifications, or other statements required by the foreign country of destination.

* * * * *

5. In § 91.6, and paragraph (a)(3) is revised as set forth below: footnote 4 is removed.

§ 91.6 Goats.

(a) * * *

(3) No goat shall be exported if it is a scrapie-positive animal or an exposed animal, as defined in 9 CFR parts 54 and 79, or if it has ever been in an infected flock, source flock, or trace flock, as defined in 9 CFR parts 54 and 79; or if it is the progeny, parent, or sibling of any scrapie-positive animal.

* * * * *

6. In § 91.8, paragraph (a) introductory text is revised to read as follows:

§ 91.8 Sheep.

(a) No sheep shall be exported if it is a scrapie-positive animal or an exposed animal, as defined in 9 CFR parts 54 and 79, or if it has ever been in an infected flock, source flock, or trace flock, as defined in 9 CFR parts 54 and 79; or if it is the progeny, parent, or sibling of any scrapie-positive animal.

* * * * *

§§ 91.6 and 91.8 [Amended]

7. In § 91.6, paragraph (a)(5), and § 91.8, paragraph (a)(2), footnote 5 and the references to footnote 5 are redesignated as footnote 4.

Done in Washington, DC, this 19th day of September 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–23613 Filed 9–23–94; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150–AE31

Specific Licensing of Exports of Certain Alpha-Emitting Radionuclides and Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to establish specific licensing controls on the export of bulk tritium, transuranic isotopes americium-242m, californium-249, californium-251, curium-245, curium-247, and certain specified alpha-emitting radionuclides; revise and establish new general licenses for tritium and the specified alpha-emitting radionuclides, which are keyed to the recipient country's membership in the Nuclear Suppliers Group; remove Argentina, Brazil, and Chile from the list of restricted destinations; and revise the general license for exports of Canadian-origin uranium. The amendments are necessary to conform the export controls of the United States to international export control guidelines and a treaty obligation of the U.S. under the U.S.-Canada Agreement for Cooperation.

EFFECTIVE DATE: November 10, 1994.

FOR FURTHER INFORMATION CONTACT: Elaine Hemby, Office of International Programs, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2341.

SUPPLEMENTARY INFORMATION:

I. Background

On March 17, 1993 (58 FR 14344), the NRC published in the **Federal Register** a proposed rule that would amend NRC's regulations in 10 CFR Part 110 pertaining to the export of nuclear material and equipment. The proposed amendments would revoke the current general licenses for bulk tritium and alpha-emitting radionuclides having an alpha half-life of 10 days or greater but less than 200 years to conform NRC's regulations to the export control guidelines of the Nuclear Suppliers Group (NSG) for nuclear-related, dual-use items contained in IAEA INFCIRC/254/Revision 1/Part 2 and approved in 1992.[1] The alpha-emitting radionuclides subject to this rule are plutonium-236, plutonium-238, thorium-227, thorium-228, uranium-230, uranium-232, actinium-225, actinium-227, californium-248, californium-250, californium-252, curium-240, curium-241, curium-242, curium-243, curium-244, einsteinium-252, einsteinium-253, einsteinium-254, einsteinium-255, fermium-257, gadolinium-148, mendelevium-258, polonium-208, polonium-209, polonium-210, and radium-223 (specified alpha-emitting radionuclides). Consistent with the NSG guidelines, new general licenses would be established to permit the export of the specified alpha-emitting radionuclides and dispersed tritium to countries which are members of the NSG dual-use guidelines and to permit the export of the specified alpha-emitting radionuclides to most other countries when in a device, or a source for use in a device, containing less than 100 millicuries (3.7 GBq) of alpha activity per device (10 CFR part 71, appendix A, provides specific activities in curies per gram).

The current general license for source material in § 110.22(b) would be revised to reduce the annual limit of Canadian-origin natural uranium that can be exported to any single country from 1,000 kilograms to 500 kilograms to help assure U.S. compliance with provisions of the U.S.-Canada Agreement for Cooperation.

The current general licenses for transuranic isotopes americium-242m, californium-249, californium-251, curium-245, and curium-247 would be revoked to conform NRC's regulations to the International Atomic Energy List of the Coordinating Committee on Multilateral Export Controls (COCOM). Although COCOM was dissolved in March 1994, the NRC is placing specific licensing controls on these isotopes because the U.S. and other COCOM member countries agreed to retain export controls on the existing COCOM list of items. Steps are now being taken by former COCOM member countries to propose that the NSG control most, if not all, of the nuclear commodities on the COCOM list.

[1] Tritium and reactor produced alpha-emitting radionuclides are the two commodities on the NSG dual-use list whose exports are regulated by the NRC. The other items identified on this list, including alpha-emitting radionuclides produced with nuclear particle accelerators, are subject to Department of Commerce export controls, and are contained on a list referred to as the Nuclear Referral List.

The proposed amendment to restructure Appendix A, which describes the nuclear reactor equipment subject to NRC licensing authority, will be addressed in a separate rulemaking proceeding.

II. Comments on the Proposed Rule

The Commission received six letters commenting on the proposed rule. Copies of the letters are available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW (Lower Level), Washington, DC. Five of the letters, two of which were from the same company, came from U.S. manufacturers that utilize sources containing the specified alpha-emitting radionuclides. These commenters strongly objected to the revocation of the general licenses for the specified alpha-emitting radionuclides, particularly californium-252 (Cf-252). The commenters indicated that the specific licensing requirements could result in serious economic disadvantage to their export business. It is their view that specific licenses would be disruptive to their businesses and cause them to lose potential business because of the higher expenses of license application fees, the additional paperwork burden, time delays, and uncertainties in delivery. One commenter believed the current general license regulations in Part 40 provided sufficient documentation to identify the supplier, quantity exported, and end user/end use. Several commenters argued that the revisions were unnecessary and were without any benefit to the stated objective of nonproliferation of nuclear weapons.

In view of these adverse comments, the NRC asked the companies to provide specific sales data on their exports to better understand the implications of the new regulation. After reviewing the responses, the NRC continues to believe that the economic impact on these companies is not significant because of the steps we have taken to address their concerns. First, the new general licenses permit the export of the specified alpha-emitters in quantities up to 100 millicuries to most countries, even when they are shipped separately from the equipment in which they are to be used. This understanding, in itself, reduced much of their concerns. The final rule was revised to clarify this point. Other new general licenses permit the export of unlimited quantities (except as limited by existing general licenses) of the specified alpha-emitting radionuclides to NSG member countries. These new general licenses will allow the companies to export a significant quantity of their Cf-252 sources, including replenishment sources, without obtaining specific licenses. Also the companies are encouraged to apply for broad, long-term licenses to export their Cf-252 sources. These kinds of applications could include customers in a number of friendly, non-NSG countries and in sufficient quantities to cover replenishment sources for six years.

Several commenters questioned whether a source containing less than 100 millicuries (186 micrograms) of Cf-252, if shipped separately from the device in which it is to be used, could be exported under the proposed new general license. One commenter noted that in the NRC materials licensing regulations, a "source" is not defined as a "device". As stated above, the NRC considers, for the purpose of part 110, that the export of a Cf-252 source for use in a specified device qualifies for this general license. The new general licenses are revised to clarify this point.

One commenter requested that the effective date of the rule be delayed or that exports under contract be exempted by a "grandfather" clause to avoid possible forced defaults in currently existing contracts that are now subject to specific licensing controls. In response to this concern, the effective date of this rule is 45 days after publication. This should be sufficient time for exports that are "in process" to be accomplished without default. The NRC did not consider a "grandfather" clause in the rule to cover committed contracts. One commenter has committed contracts to deliver Cf-252 sources to the year 1997. The NRC believes these sources should not be excluded from the new regulation for more than another few weeks. The applicable export control guidelines were agreed to by the U.S. and other NSG member countries in 1992 and should be implemented by the NRC without an extended delay.

A commenter representing a major U.S. vendor stated that the proposed restructuring of Appendix A and the new language still did not clearly delineate which minor reactor components required NRC licenses and which fall within the jurisdiction of the Department of Commerce. The commenter believed that the proposed amendment could result in increased confusion for exporters. In view of this comment, the Commission defers consideration of the revision of Appendix A to a future rulemaking.

The same commenter was concerned that service tooling contaminated with residual byproduct, source, or special nuclear material may be subject to specific licensing controls under the proposed rule. It is not the intent of the NRC to place new controls on these types of nuclear materials in this rulemaking.

III. The Final Rule

Under current NRC regulations, bulk tritium in quantities up to 100 curies, the specified alpha-emitting radionuclides in unlimited quantities, and transuranic isotopes americium-242m, californium-249, californium-251, and curium-245 in unlimited quantities can be exported to most countries under general licenses. The final rule amends the general license provisions in §§ 110.21–110.23 for the export of special nuclear, source, and byproduct material to revoke the general licenses for these materials. Specific licensing controls are established on the above materials. Although some of the specified alpha-emitting radionuclides inadvertently were not specifically identified in the proposed rule, they are included in the general license revocation implemented by this rule.

Argentina, Brazil, and Chile are removed from the list of restricted destinations in § 110.29. Since publication of the proposed rule, Argentina and Brazil have ratified and begun implementation of the Argentina/Brazil/IAEA full-scope safeguards agreement and Chile has waived into force the Treaty of Tlatelolco.

Section 110.30 is a list of the other member countries of the NSG. Exports of the specified alpha-emitting radionuclides in unlimited quantities (except as limited by the existing general licenses) and dispersed tritium in quantities up to 40 curies per device are permitted to NSG member countries under the new general licenses established for them. Subsequent to the publication of the proposed rule, Argentina has become a member of the NSG and is included in the list.

Three items covered in this final rule were not specifically identified in the proposed rule: (1) The general licenses in § 110.23 for einsteinium-252 -253 -254 -255, fermium-257, gadolinium-148, and mendelevium-258 are revoked; (2) Argentina, Brazil, and Chile are removed from the restricted destination list in § 110.29; and (3) Argentina is added to the NSG member list in § 110.30. Although the NRC did not publish these changes for comment in the proposed rule, the NRC is merely codifying international obligations of the United States. The NRC is proceeding to final rule because these changes involve a foreign affairs function of the United States. Therefore, solicitation of public comment is not

required under the Administrative Procedure Act (5 U.S.C. 553(a)(1)) and 10 CFR 110.132(e) and 110.134. Here solicitation of public comments would delay U.S. conformance with its international obligations and therefore would not be in the public interest.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion under 10 CFR 51.22 (c)(1) and (c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval numbers 3150–0036 and 3150–0027.

The public reporting burden for this collection of information is estimated to average less than 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0036, 3150–0027), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

See the discussion in the Regulatory Flexibility Certification for the final regulatory analysis for this rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities.

Based on the information available to the Commission at the time the proposed rule was published, the Commission previously certified that the proposed rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. The information to support this was obtained from the Department of Energy's national laboratories and some industry sources. The Commission also invited any small entity that determined that it is likely to bear a disproportionate economic impact because of its size to notify the Commission.

The Commission received four comments on the proposed rule from U.S. manufacturers that utilize radioactive sources containing Cf–252. Two of the companies qualify as small entities. Through their comments, the Commission became aware of the potentially detrimental economic impact that the revocation of the general licenses under which they were permitted to export Cf–252 would have. In view of these adverse comments, the NRC asked the companies to provide sales data on their exports to better reflect the implications of the new regulation. Based on a review of this summary data, the NRC, in cooperation with the companies, found that the impact of the rule changes on future sales will be much less than they had feared.

First, new general licenses are established to permit the export of CF–252 sources in quantities up to 100 millicuries to most countries, even when they are shipped separately from the equipment in which they are to be used. This understanding, in itself, reduces much of their concerns. Further, other new general licenses are established to permit the export of unlimited quantities (except as limited by existing general licenses) of Cf–252 sources to NSG member countries. These new general licenses will allow the companies to export a significant quantity of their Cf–252 sources, including replenishment sources, without obtaining specific licenses. In addition, the companies may submit broad, long-term licenses to export their Cf–252 sources to their medical, scientific, industrial, and reactor-related customers in friendly, non-NSG countries, thereby eliminating case-by-case review. Such licenses could authorize exports of Cf–252 sources in sufficient quantities to cover startup sources and replenishment sources for Taiwan and South Korean power reactors for a number of years. The anticipated value of the exports under such licenses would range from $260,000 to over $2 million. Other such licenses could authorize exports of Cf–252 sources and replenishment sources to medical, industrial, and scientific customers, with total export values under such licenses ranging from $100,000 to over $500,000. The current fee would be $1300 for each specific license application submitted. These steps will greatly reduce the financial burden of the license application fees and the additional paperwork. The processing of an export license application of this type normally takes less than 45 days for final action. The annual burden imposed by the rule is estimated to average less than 3 hours for an exporter for each specific application. The staff expects less than ten new applications a year as a result of this rule.

As an additional step to address the concerns of the exporters, the NRC consulted with the Department of Energy technical specialists to determine if any adjustments could be made to the proposed amendments for the specified alpha-emitting radionuclides, particularly Cf–252, to lessen the burden on U.S. exporters that export these materials to non-NSG member countries (exports to NSG countries would still be under general licenses). However, no acceptable adjustments were identified. We confirmed with U.S. nuclear weapons design experts that all of the specified alpha-emitting radionuclides, including Cf–252, could have some utility in nuclear explosive devices and that the 100 millicurie threshold for control was appropriate for the specified alpha-emitting radionuclides.

There are no alternatives for achieving the stated objective. This rule is necessary to conform NRC's export controls to the international export guidelines of the NSG. The United States and other NSG member countries have formally agreed to control these materials because of their utility in nuclear explosive weapons. Thus, the regulation is required to satisfy an international obligation of the United States. The foregoing discussion constitutes the regulatory flexibility analysis and the regulatory analysis for this final rule.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this final rule because these amendments do not include any provisions that would require backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 110.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for Part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d, 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 et seq.).

2. In § 110.2, a definition for *Specific activity* is added in alphabetical order to read as follows:

§ 110.2 Definitions.

* * * * *

Specific activity (millicuries per gram) equals 3.575×10^8 divided by (the atomic weight times the half life in years).

* * * * *

§ 110.4 [Amended]

3. In § 110.4, first sentence, remove the words "Assistant Director for Exports, Security, and Safety Cooperation", and add in their place the words "Director for Nonproliferation, Exports, and Multilateral Relations".

§ 110.7 [Amended]

4. In § 110.7, second sentence, the reference to "§ 110.31" is revised to read "§ 110.32" and the reference to "§ 110.30", where it appears twice, is revised to read "§ 110.31".

§ 110.20 [Amended]

5. In § 110.20, paragraph (a), the reference to "110.29" is revised to read "110.30" and the reference to "§§ 110.30–110.31" is revised to read "§§ 110.31–110.32", and in the first sentence of paragraph (f), the phrase "§§ 110.21 through 110.26, 110.28, and 110.29" is revised to read "§§ 110.21 through 110.26, 110.28, 110.29, and 110.30".

6. In § 110.21, paragraphs (a)(3) and (b)(1) are revised and new paragraphs (a)(4) and (c) are added to read as follows:

§ 110.21 General license for the export of special nuclear material.

(a) * * *

(3) Special nuclear material, other than Pu–236 and Pu–238, in sensing components in instruments, if no more than 3 grams of enriched uranium or 0.1 gram of Pu or U–233 are contained in each sensing component.

(4) Pu–236 and Pu–238 when contained in a device, or a source for use in a device, in quantities of less than 100 millicuries of alpha activity (189 micrograms Pu–236, 5.88 milligrams Pu–238) per device or source.

(b) * * *

(1) Special nuclear material, other than Pu–236 and Pu–238, in individual shipments of 0.001 effective kilogram or less (e.g., 1.0 gram of plutonium, U–233 or U–235, or 10 kilograms of 1 percent enriched uranium), not to exceed 0.1 effective kilogram per year to any one country.

* * * * *

(c) A general license is issued to any person to export Pu–236 or Pu–238 to any country listed in § 110.30 in individual shipments of 1 gram or less, not to exceed 100 grams per year to any one country.

7. In § 110.22, paragraphs (a)(1), (a)(2), (b), and (c) are revised and new paragraphs (a)(3) and (d) are added to read as follows:

§ 110.22 General license for the export of source material.

(a) * * *

(1) Uranium or thorium, other than U–230, U–232, Th–227, and Th–228, in any substance in concentrations of less than 0.05 percent by weight.

(2) Thorium, other than Th–227 and Th–228, in incandescent gas mantles or in alloys in concentrations of 5 percent or less.

(3) Th–227, Th–228, U–230, and U–232 when contained in a device, or a source for use in a device, in quantities of less than 100 millicuries of alpha activity (3.12 micrograms Th–227, 122 micrograms Th–228, 3.7 micrograms U–230, 4.7 milligrams U–232) per device or source.

(b) A general license is issued to any person to export uranium or thorium, other than U–230, U–232, Th–227, or Th–228, in individual shipments of 10 kilograms or less to any country not listed in § 110.28 or § 110.29, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

(c) A general license is issued to any person to export uranium or thorium, other than U–230, U–232, Th–227, or Th–228, in individual shipments of 1 kilogram or less to any country listed in § 110.29, not to exceed 100 kilograms per year to any one country.

(d) A general license is issued to any person to export U–230, U–232, Th–227, or Th–228 in individual shipments of 10 kilograms or less to any country listed in § 110.30, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

8. Section 110.23 is revised to read as follows:

§ 110.23 General license for the export of byproduct material.

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) All byproduct material (see Appendix F to this part), except actinium–225, actinium–227, americium–241, americium–242m, californium–248, californium–249, californium–250, californium–251, californium–252, curium–240, curium–241, curium–242, curium–243, curium–244, curium–245, curium–246, curium–247, einsteinium–252, einsteinium–253, einsteinium–254, einsteinium–255, fermium–257, gadolinium–148, mendelevium–258, neptunium–237, polonium–208, polonium–209, polonium–210, radium–223, and tritium unless authorized in paragraphs (a)(2) through (a)(6), (b), or (c) of this section.

(2) Actinium–225, actinium–227, californium–248, californium–250, californium–252, curium–240, curium–241, curium–242, curium–243, curium–244, einsteinium–252, einsteinium–253, einsteinium–254, einsteinium–255, fermium–257, gadolinium–148, mendelevium–258, polonium–208, polonium–209, polonium–210, and radium–223 when contained in a device, or a source for use in a device, in quantities of less than 100 millicuries of alpha activity (see § 110.2 for specific activity) per device or source, except that exports of polonium–210 when contained in static eliminators may not exceed 100 curies (22 grams) per individual shipment.

(3) Americium–241, except that exports exceeding one curie (308

milligrams) per shipment or 100 curies (30.8 grams) per year to any country listed in § 110.29 must be contained in industrial process control equipment or petroleum exploration equipment in quantities not to exceed 20 curies (6.16 grams) per device or 200 curies (61.6 grams) per year to any one country.

(4) Neptunium–237 in individual shipments of less than 1 gram, not to exceed 10 grams per year to any one country.

(5) Tritium in any dispersed form (e.g., luminescent light sources and paint, accelerator targets, calibration standards, labeled compounds) in quantities of 10 curies (1.03 milligrams) or less per item, not to exceed 1,000 curies (103 milligrams) per shipment or 10,000 curies (1.03 grams) per year to any one country. This general license does not authorize exports for tritium recovery or recycle purposes.

(6) Tritium in luminescent safety devices installed in aircraft when in quantities of 40 curies (4.12 milligrams) or less per light source.

(b) A general license is issued to any person to export to the countries listed in § 110.30 tritium in any dispersed form (e.g., luminescent light sources and paint, accelerator targets, calibration standards, labeled compounds) in quantities of 40 curies (4.12 milligrams) or less per item, not to exceed 1,000 curies (103 milligrams) per shipment or 10,000 curies (1.03 grams) per year to any one country. This general license does not authorize exports for tritium recovery or recycle purposes.

(c) A general license is issued to any person to export to the countries listed in § 110.30 actinium–225, actinium–227, californium–248, californium–250, californium–252, curium–240, curium–241, curium–242, curium–243, curium–244, einsteinium–252, einsteinium–253, einsteinium–254, einsteinium–255, fermium–257, gadolinium–148, mendelevium–258, polonium–208, polonium–209, polonium–210, and radium–223, except that polonium–210 when contained in static eliminators must not exceed 100 curies (22 grams) per individual shipment.

§ 110.29 [Amended]

9. In § 110.29 remove footnote 1 and the countries of "Argentina", "Brazil", and "Chile".

§§ 110.30 and 110.31 [Redesignated]

10. Sections 110.30 and 110.31 are redesignated as § 110.31 and § 110.32.

11. A new § 110.30 is added to read as follows:

§ 110.30 Members of the Nuclear Suppliers Group.

Argentina
Australia
Austria
Belgium
Bulgaria
Canada
Czech Republic
Denmark
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Japan
Luxembourg
Netherlands
Norway
Poland
Portugal
Romania
Russia
Slovak Republic
Spain
Sweden
Switzerland
United Kingdom

§ 110.31 [Amended]

12. In § 110.31, paragraph (a), remove the words "Assistant Director for Exports, Security, and Safety Cooperation", and add in their place the words "Director for Nonproliferation, Exports, and Multilateral Relations", paragraph (d), the reference to "§ 110.31" is revised to read "§ 110.32".

13. In § 110.43, paragraph (a) is revised to read as follows:

§ 110.43 Physical security standards.

(a) Physical security measures in recipient countries must provide protection at least comparable to the recommendations in the current version of IAEA publication INFCIRC/225/Rev.2, December 1989, "The Physical Protection of Nuclear Material," and is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Notice of any changes made to the material incorporated by reference will be published in the **Federal Register**. Copies of INFCIRC/225/Rev.2 may be obtained from the Director for Nonproliferation, Exports, and Multilateral Relations, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and are available for inspection at the NRC library, 11545 Rockville Pike, Rockville, Maryland 20852–2738. A copy is available for inspection at the library of the Office of the Federal Register, 800 N. Capitol Street, NW., suite 700, Washington, DC.

* * * * *

§ 110.50 [Amended]

14. In § 110.50, paragraph (b)(3), sentences one, two, and three, remove the words "Assistant Director for Exports, Security, and Safety Cooperation", and add in their place the words "Director for Nonproliferation, Exports, and Multilateral Relations".

Appendix F—[Amended]

15. Appendix F to Part 110 is amended to add, in alphabetical order, curium-240 (Cm-240), curium-241, (Cm-241) einsteinium-252 (Es-252), einsteinium-253 (Es-253), einsteinium-254 (Es-254), einsteinium-255 (Es-255), fermium-257 (Fm-257), gadolinium-148 (Gd-148), and mendelevium-258 (Md-258).

Dated in Rockville, Maryland, this 16th day of September, 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–23464 Filed 9–23–94; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 22 and 51

[PN 2083]

Fee for Expedited Passport Processing

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim final rule with request for comment.

SUMMARY: This rule amends the Schedule of Consular Fees and the passport regulations to reflect that an additional fee will be charged within the United States for expediting the processing of passports. The service will be provided upon payment of the fee when requested by the applicant and justified by urgent departure plans.

The rule establishes what service is provided for the fee; establishes when the fee will be charged; sets the amount of the fee; establishes the documentation the applicant will need to present to obtain the service; defines the limited situations when the fee will not be charged; provides for a refund when expedited services cannot be given; and provides that the after hours surcharge for consular services will not be charged within the United States.

DATES: Effective Date: October 1, 1994.

Comments: Interested persons are invited to submit written comments on or before November 1, 1994.

ADDRESSES: Director, Office of Passport Policy and Advisory Services, 1111–

19th Street NW., Washington, DC 20522–1705.

FOR FURTHER INFORMATION CONTACT: William B. Wharton, Director, Office of Passport Policy and Advisory Services, 1111–19th Street NW., Washington, DC 20522–1705. Tel. (202) 955–0221.

SUPPLEMENTARY INFORMATION: On August 26, 1994, the President signed into law Public Law 103–317, the Department of State and Related Agencies Appropriations Act, 1995. The Diplomatic and Consular Programs appropriation in this Act provides that "all receipts received from a new charge from expedited passport processing" shall, in effect, be retained by the Department of State in the "Diplomatic and Consular Programs account" and available until expended. See S. Rept. 103–309, at 123 (July 14, 1994).

To utilize this new fee retention authority consistent with congressional intent, the Department of State is, in this rule, establishing a new fee for expedited passport processing. The Department already has specific authority to establish passport fees under 22 U.S.C. 214, as amended (which normally requires that fees be collected into the U.S. Treasury). The Department also is authorized to establish fees for passport related services under 31 U.S.C. 9701, a reference to which is being added to the authorities section of 22 CFR part 51.

Public Law 103–317 authorizes the Department to retain the new fee for expedited passport processing.

The Schedule of Fees for Consular Services, 22 CFR 22.1 is amended to add Item 14, Passport Expedite Fee and to limit the application of the after hours fee, Item 93, to posts abroad. The after-hours fee has been used domestically only in cases where passport agencies were open after hours to process urgent passport requests. These costs will now be subsumed in the expedited processing fee. 22 CFR part 51 is amended to add section 51.67 to provide for the expedited processing of a passport within the United States upon payment of the passport expedite fee. Section 51.64(f) is added to provide for a refund of the expedite fee when the expedited service is not, in fact, provided.

The new fee will be in addition to any other applicable fee. The expedite fee will not cover the cost of urgent mailing fees, if required.

The new fee is being set at $30.00, consistent with the Department's consultations with Congress before Public Law 103–317 was enacted. This fee will ensure that the costs of processing passports on an expedited basis, as reflected in the Department's 1991 consular fees cost study, are borne by those who receive that service and that the Department recovers additional costs associated with implementing this fee and eliminating the separate charge for overtime work. (As noted by Congress, for example, up to 60% more time is required to process a passport application on an expedited basis than to provide normal processing services.)

If expedited processing is granted, the Department, through the Passport Agencies, will undertake to process the passport within three business days. The expedited service covered by the new fee begins when the application is received by a Passport Agency through personal delivery; by mail; or, if the application is already at an Agency, when the request to expedite is approved. If the applicant's planned departure is within fewer than three days, the Passport Agency may be able to accommodate this shorter period.

There will be situations in which expedited passport processing cannot be completed within three days. Such circumstances could include cases in which the applicant does not submit adequate documentation; the applicant is the subject of an unresolved civil or criminal law enforcement matter; or, passport equipment breaks down. The Department expects that these situations will be very rare. In such circumstances, the applicant will be notified and the fee will be refunded.

The rule provides for waiver of the expedite fee in cases where the need for expedited processing results from a mistake by the Department in processing the application. No waiver of the fee will otherwise be made.

To ensure that expedited processing is used only by those who have urgent travel plans, the regulation requires a person requesting this service to provide confirmed tickets or an itinerary showing his or her imminent departure in less than ten days or showing special visa needs.

This rule takes effect on October 1, 1994, the beginning of Fiscal Year 1995, the fiscal year covered by Public Law 103–317. The implementation of this rule as an interim final rule with provision for post-promulgation comments is based upon the "good cause" exception found at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Delay in implementing this provision of Public Law 103–317 would be contrary to congressional expectations that the Department will begin collection of this fee at the beginning of FY 1995.

This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith. This rule is exempt from review under E.O. 12866, but has been reviewed internally by the Department to ensure consistency with the objectives thereof.

List of Subjects in 22 CFR Part 22 and Part 51

Passports and visas, Schedule of fees for consular services.

PART 22—[AMENDED]

For the reasons set forth in the preamble, 22 CFR is amended as follows:

1. The authority citation for Part 22 is revised to read as follows:

Authority: Secs. 3, 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, 214; 2651, 2658, 3921, 4219; 31 U.S.C. 9701; Title V, Pub. L. 103–317, 108 Stat. 1724; E.O. 10718, 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 3 CFR, 1966–1970 Comp., p. 570, unless otherwise noted.

2. Section 22.1 is amended by adding Item 14 under "Passport and Citizenship Services" to read as follows:

§ 22.1 Schedule of fees.

Item No.	Fee

* * * * *

14. Expedited Passport Processing Within the United States—30.00.

* * * * *

3. Item 93 of § 22.1 is amended by removing the words "in the United States or"; by removing the comma and inserting the word "or" between "Consul General" and "the supervising consular officer"; and, by removing the words "or the Passport Agency Director".

4. The authority citation for Part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a, as amended; 22 U.S.C. 2658, 3926; sec. 122(d)(3), Pub. L. 98–164, 97 Stat. 1017; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p. 570; Pub. L. 100–690; sec. 129, Pub. L. 102–138, 105 Stat. 661; sec. 503, Pub. L. 102–140, 105 Stat. 820; Title V, Pub. L. 103–317, 108 Stat. 1724, unless otherwise noted.

5. Section 51.64 is amended by adding paragraph (f) to read as follows:

§ 51.64 Refunds.

* * * * *

(f) The passport expedite fee will be refunded if the Passport Agency does

not provide the requested expedited processing as defined in § 51.67.

6. Section 51.67 is added, to read as follows:

§ 51.67 Expedited passport processing.

(a) Within the United States, an applicant for a passport service (including issuance, amendment, extension or the addition of visa pages) may request expedited processing by a Passport Agency.

(b) Expedited passport processing shall mean completing processing within 3-business days commencing when the application reaches a Passport Agency or, if the application is already with a Passport Agency, commencing when the request for expedited processing is approved. The processing will be considered completed when the passport is ready to be picked up by the applicant or is mailed to the applicant.

(c) The fee for expedited service is $30.00. This amount will be in addition to any other applicable fee and does not include urgent mailing costs, if any.

(d) A request for expedited processing normally will be accepted only if the applicant can document urgent departure with airline tickets showing confirmed reservation or similar evidence. The Passport Agency may decline to accept the request if it is apparent at the time it is made that the request cannot be granted.

(e) The expedite fee may be waived only where the need for expedited processing was necessary due to Department error, mistake or delay.

Dated: September 16, 1994.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 94-23717 Filed 9-23-94; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

RIN 0790-AF63

Collection From Third Party Payers of Reasonable Costs of Healthcare Services

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule replaces the current method of per diem billings to one based on diagnostic related groups, expands the single outpatient billing category to as many as sixty, and expands the billing for outpatient services to include land ambulance service, air ambulance service and hyperbaric services. This final rule improves billing methods for both inpatient and outpatient care. This expansion creates a greater level of specificity which more accurately reflects the cost of the care provided. In addition, this final rule identifies additional outpatient services for which recovery of costs will be sought.

EFFECTIVE DATE: This final rule is effective on October 26, 1994.

FOR FURTHER INFORMATION CONTACT: LCDR Patrick Kelly, (703) 756-8910.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted 10 U.S.C. 1095 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, § 2001(a)(1), to permit the Department of Defense to collect from third party payers reasonable inpatient hospital care costs incurred on behalf of most DoD health care beneficiaries. To implement this statute, the Department of Defense issued a proposed rule October 8, 1986, and a final rule September 25, 1987. The final rule has been amended several times since 1987, most recently on September 9, 1992, (57 CFR 41096). That rule changed the unified per diem rate for inpatient care to a set of 12 clinical group per diem rates. It also implemented authority to bill for outpatient services by establishing a single per visit rate for most outpatient services.

II. Provisions of the Final Rule

A. Inpatient Services

In October 1992, the Department of Defense began a transition from the traditional single rate for reimbursement for various healthcare services to multiple rates reflective of the clinical care provided. The multiple rates result in charges that more closely approximate the actual costs of delivering specific categories of medical services, such as surgical care, obstetrical care, pediatric care, etc. The rates are based on the actual costs of rendering healthcare services as reflected in the Medical Expense and Performance Reporting System (MEPRS).

This rule changes paragraph 220.8(c) by replacing the current twelve billing categories with a billing method based on diagnostic related groups (DRGs), as specifically authorized by 10 U.S.C. 1095(f)(3). The DRG-based method for determining reasonable costs of inpatient care will produce more accurate and equitable billings. Billings will more accurately reflect the costs associated with the actual services provided. This rule models the DRG-based cost methodology, the basis for the DRG-based payment system for hospital care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). However, in some respects, this rule simplifies CHAMPUS methods, with authority to introduce the additional refinements at a later date.

For example, initially this rule uses a single national standardized amount, rather than the three standardized amounts (large urban, other urban, and rural) used by CHAMPUS. The three amounts do not differ significantly and are probably not as relevant in connection with a unified federal hospital system, such as DoD's. However, the rule allows us to adopt the multiple standardized amounts at a later date.

The standardized amount is the result of dividing total system-wide costs of inpatient care by the total number of discharges system-wide. With respect to DRG relative weights, this rule uses the same weights as are used for the CHAMPUS DRG-based payment method. The CHAMPUS weights were calculated from a data base of actual CHAMPUS claims filed by civilian hospitals. Because the patient population under military treatment facilities and CHAMPUS are quite similar, we believe it is appropriate to use the same weights.

The CHAMPUS DRG-based payment method uses a number of adjustments to the product of standardized amount multiplied by the relative weight of the appropriate DRG. The adjustments relate to outlier cases, area wage differences and indirect medical education. Initially, this rule does not use these adjustments, but allows all related costs to be reflected in the standardized amount. This approach has the advantage of simplicity and predictability for payers. However, the final rule allows these adjustments to be introduced at a later date.

In accordance with current practice, the standard DRG-based rate is divided into two categories: Hospital charges, which includes ancillary charges, and Professional charges.

The effective date for implementation of a multiple rate schedule will be the effective date of this rule, barring unforeseen difficulties in automation support. The specific rates will be published in the Federal Register.

B. Outpatient Services

As with the inpatient rates, the outpatient rates are based on the actual costs of rendering healthcare services as reflected in the Medical Expense and Performance Reporting System

(MEPRS). MEPRS is the standard expense reporting system for all fixed medical treatment facilities (MTFs) within the Department of Defense (DoD) and is the accepted source of healthcare information for Congress and offices and agencies of the Executive Branch. The reimbursement categories are selected based on board certified specialties/subspecialties widely accepted by graduate medical accrediting organizations such as the Accreditation Council for Graduate Medical Education (ACGME) or the American Board of Medical Specialties (ABMS).

Rates are established but need not be limited to each of the following clinical reimbursement categories: Internal Medicine, Allergy, Cardiology, Diabetic, Endocrinology, Gastroenterology, Hematology, Hypertension, Nephrology, Neurology, Nutrition, Oncology, Pulmonary Disease, Rheumatology, Dermatology, Infectious Disease, Physical Medicine, General Surgery, Cardiovascular and Thoracic Surgery, Neurosurgery, Ophthalmology, Organ Transplant, Otolaryngology, Plastic Surgery, Proctology, Urology, Pediatric Surgery, Family Planning, Obstetrics, Gynecology, Pediatrics, Adolescent Pediatrics, Well Baby, Orthopaedics, Cast, Orthotic Laboratory, Hand Surgery, Podiatry, Psychiatry, Psychology, Child Guidance, Mental Health, Social Work, Substance Abuse Rehabilitation, Family Practice, and Occupational and Physical Therapy. This rule does not necessarily establish a separate rate for each of these clinical reimbursement categories. Similar categories may be combined for purposes of billing.

Another revision to section 220.8 involves the expansion of a single outpatient rate to multiple reimbursement category rates similar to that for inpatient care. The Department of Defense adopts a methodology for computing rates for outpatient care similar to that used for computing multiple rates for inpatient care. Thus, collections for most outpatient services will be based on a standard per visit fee to a specialty/subspecialty which is representative of the average cost in facilities of the Uniformed Services of an outpatient visit to that specialty clinic. Multiple outpatient visits on the same day to different clinics will result in one charge for each clinic visit. Multiple visits on the same day to the same clinic will result in only one charge. As a general rule, each standard per visit amount to the specialty/subspecialty clinic will be all-inclusive. No additional charge will be made for outine laboratory, radiology, pharmacy or other ancillary or overhead services provided in conjunction with an outpatient visit.

Although most outpatient services will be billed based on the standard per visit fee for a specialty/subspecialty, there are several special rules for particular types of care. One special rule is that a separate charge for same day/ambulatory surgery will be published annually.

The effective date of the expanded number of billing categories is targeted for October 1, 1994. The specific rates will be published in the **Federal Register.**

C. Miscellaneous Healthcare Services

Initial implementation of the Third Party Collection Program was somewhat limited in scope and concentrated on inpatient and ambulatory care areas. This final rule expands the program to include outpatient services which may not traditionally be provided in hospitals or which are not traditional clinical specialties or subspecialties. This includes, but is not limited to, ambulance service, hyperbaric treatments, dental care services and immunizations. We intend to recover the cost of these services to the extent they are generally applicable coverage provisions of a third party payer.

We intend to recover the cost of ambulance service which includes the cost of providing emergency aid and then transportation of beneficiaries to a medical treatment facility. It would also include the transport of patients to other medical facilities or to specialized clinics for diagnostic or therapeutic services which is frequently necessary. We intend to recover costs on the basis of the length of time the ambulance is in service with one hour to be the minimum amount billed. The reimbursement rates for ambulance care will only cover the costs of operating the vehicle, including labor costs (driver and attendant), supplies, fuel, and overhead.

We intend to recover the cost of hyperbaric treatments provided to beneficiaries as part of a course of treatment. For example, high pressure oxygenation treatments, burn treatments and decompression treatments in response to diving incidents are frequently provided. We only intend to recover the cost of providing these treatments which includes the operating cost of the chamber, i.e., labor costs, (operators and attending medical personnel), supplies, and overhead. We do not intend to include amortization of either the actual or replacement cost of the hyperbaric chamber or the building.

Dental services are provided to beneficiaries on a space available basis and in remote locations. Dental services may include oral diagnosis and prevention, periodontics, prosthodontics (fixed and removable), implantology, oral surgery, orthodontics, pediatric dentistry and endodontics.

The Department also provides a wide range of immunizations to Military Health Service beneficiaries, including immunizations against common childhood diseases such as measles, smallpox and diphtheria and regional endemic diseases such as yellow fever, plague and cholera. We also administer a variety of medications and test beneficiaries for allergic conditions. Immunizations costs are not included as part of the reimbursement rates for either inpatient or ambulatory care. We intend to seek reimbursement for immunizations against childhood diseases and diseases characteristic of the United States and its Territories. We will also seek reimbursement for the administration of all medications or allergy extracts, when the medication or extract is purchased by the medical treatment facility, and for the testing for allergic conditions. We do not intend to seek recovery for immunizations administered incident to overseas travel or transfer, or for those medications purchased by the beneficiary and simply administered at the medical treatment facility. The reimbursement rate shall be based on the average fully burdened cost of an immunization and a separate charge shall be applied for each immunization which is administered.

D. Other Revisions

We received one public comment on the proposed rule. It was from a group of organizations who objected to the provision in the proposed rule concerning PRIMUS and NAVCARE clinics. In the proposed rule, we proposed to eliminate from the Third Party Collection Program regulation the special rule regarding PRIMUS and NAVCARE clinics, which are contractor owned, contractor operated freestanding clinics under contract with DoD. Under special demonstration program authority, these clinics have functioned under rules applicable to military medical treatment facilities, including Third Party Collection program rules. With the conclusion of the demonstration project, these clinics are no longer authorized to bill third party payers under the authority of 10 U.S.C. 1095 (but will continue to bill under other authority). Therefore, the change set forth in the proposed rule is necessary, and has been included in the final rule.

The organizations who objected to this proposed change did so on the belief that this would terminate features of PRIMUS and NAVCARE clinics that they strongly support, including access to primary care visits without deductible or copayment requirements, and eligibility for military beneficiaries who are not CHAMPUS eligible (such as active duty members and Medicare-eligible beneficiaries). These organizations can be assured that the adoption of this final rule has no impact on those aspects of the PRIMUS/NAVCARE program.

We have added one other revision to the regulation, a technical correction to section 220.8(d), which had incorrectly referred to paragraph (j) concerning a matter for which paragraph (k) is the appropriate reference.

III. Regulatory Procedures

This final rule is not a significant regulatory action under Executive Order 12866. It will not have an impact of $100 million or other significant economic impacts. Similarly, the rule does not significantly affect a substantial number of small entities within the meaning of the Regulatory Flexibility Act. As stated above, for the most part, this final rule simply incorporates into the third party collection program regulation more precise cost calculation methods. In addition, this rule does not impose new information collection requirements for purposes of the Paperwork Reduction Act.

List of Subjects in 32 CFR Part 220

Claims, Health care, Health insurance.

For the reasons stated in the preamble, 32 CFR Part 220 is amended as follows:

PART 220—COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

1. The authority citation for part 220 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1095.

2. Section 220.8 is amended by revising paragraph (a), the heading and first sentence of paragraph (c), and paragraphs (d), (e), (g), (h), (i), (k) and (l) as follows:

§ 220.8 Reasonable costs.

(a) *Diagnosis related group (DRG)-based method for calculating reasonable costs for inpatient services.*

(1) *In general.* As authorized by 10 U.S.C. 1095(f)(3), the calculation of reasonable costs for purposes of collections for inpatient hospital care under 10 U.S.C. 1095 and this part shall be based on diagnosis related groups (DRGs). Costs shall be based on the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal diagnosis involved. The average cost per case shall be published annually as an inpatient standardized amount. A relative weight for each DRG shall be the same as the DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medicare Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1).

(2) *Standardized amount.* The standardized amount shall be determined by dividing the total costs of all inpatient care in all military medical treatment facilities by the total number of discharges. This will produce a single national standardized amount. The Department of Defense is authorized, but not required by this part to calculate three standardized amounts, one each for large urban areas, other urban areas, and rural areas, utilizing the same distinctions in identifying those areas as is used for CHAMPUS under 32 CFR 199.14(a)(1).

(3) *DRG relative weights.* Costs for each DRG will be determined by multiplying the standardized amount per discharge by the DRG relative weight. For this purpose, the DRG relative weights used for CHAMPUS pursuant to 32 CFR 199.14(a)(1) shall be used.

(4) *Adjustments for outliers, area wages, and indirect medical education.* The Department of Defense may, but is not required by this part, to adjust cost determinations in particular cases for length-of-stay outliers (long stay and short stay), cost outliers, area wage rates, and indirect medical education. If any such adjustments are used, the method shall be comparable to that used for CHAMPUS hospital reimbursements pursuant to 32 CFR 199.14(a)(1)(iii)(E), and the calculation of the standardized amount under paragraph (a)(2) of this section will reflect that such adjustments will be used.

(5) *Identification of professional and hospital costs.* For purposes of billing third party payers other that automobile liability and no-fault insurance carriers, inpatient billings will be subdivided into two categories:

(1) Hospital charges (which refers to routine service charges associated with the hospital stay and ancillary charges).

(ii) Professional charges (which refers to professional services provided by physicians and certain other providers).

(6) Outpatient billings will continue to be subdivided into three categories:

(i) Hospital charges (which refers to routine service charges associated with the outpatient visit).

(ii) Professional charges (which refers to professional services provided by physicians and certain other providers).

(iii) Ancillary charges (which refers to diagnostic and treatment services, other than professional services, provided by components of the hospital in connection with the outpatient visit).

* * * * *

(c) *Clinical groups per diem rates for care provided on or after October 1, 1992, and prior to October 1, 1994.* For inpatient hospital care provided on or after October 1, 1992, and prior to October 1, 1994, the computation of reasonable costs shall be based on the per diem full reimbursement rate applicable to the clinical category of services involved. * * *

* * * * *

(d) *Medical services and subsistence charges included.* Medical services charges pursuant to 10 U.S.C. 1078 or subsistence charges pursuant to 10 U.S.C. 1075 are included in the claim filed with the third party payer pursuant to 10 U.S.C. 1095. For any patient of a facility of the Uniformed Services who indicates that he or she is a beneficiary of a third party payer plan, the usual medical services or subsistence charge will not be collected from the patient to the extent that payment received from the payer exceeds the medical services or subsistence charge. Thus, except in cases covered by section 220.8(k), payment of the claim made pursuant to 10 U.S.C. 1095 which exceeds the medical services or subsistence charge, will satisfy all of the third party payer's obligation arising from the inpatient hospital care provided by the facility of the Uniformed Services on that occasion.

(e) *Per visit rates.*

(1) As authorized by 10 U.S.C. 1095(f)(2), the computation of reasonable costs for purposes of collections for most outpatient services shall be based on a per visit rate for a clinical specialty or subspecialty. The per visit charge shall be equal to the outpatient full reimbursement rate for that clinical specialty or subspecialty and includes all routine ancillary services. A separate charge will be calculated for cases that are considered same day/ambulatory surgeries. These rates shall be updated and published annually. As with inpatient billing categories, clinical groups representing selected board certified specialties/subspecialties widely accepted by graduate medical accrediting organizations such as the Accreditation

Council for Graduate Medical Education (ACGME) or the American Board of Medical Specialties will be used for ambulatory billing categories. Related clinical groups may be combined for purposes of billing categories.

(2) The following clinical reimbursement categories are representative, but not all-inclusive of the billing category clinical groups referred to in paragraph (e)(1) of this section: Internal Medicine, Allergy, Cardiology, Diabetic, Endocrinology, Gastroenterology, Hematology, Hypertension, Nephrology, Neurology, Nutrition, Oncology, Pulmonary Disease, Rheumatology, Dermatology, Infectious Disease, Physical Medicine, General Surgery, Cardiovascular and Thoracic Surgery, Neurosurgery, Ophthalmology, Organ Transplant, Otolaryngology, Plastic Surgery, Proctology, Urology, Pediatric Surgery, Family Planning, Obstetrics, Gynecology, Pediatrics, Adolescent Pediatrics, Well Baby, Orthopaedics, Cast, Orthotic Laboratory, Hand Surgery, Podiatry, Psychiatry, Psychology, Child Guidance, Mental Health, Social Work, Substance Abuse Rehabilitation, Family Practice, and Occupational and Physical Therapy.

* * * * *

(g) *Special rule for services ordered and paid for by a facility of the Uniformed Services but provided by another provider.* In cases where a facility of the Uniformed Services purchases ancillary services or procedures, from a source other than a Uniformed Services facility, the cost of the purchased services will be added to the standard rate. Examples of ancillary services and other procedures covered by this special rule include (but are not limited to): laboratory, radiology, pharmacy, pulmonary function, cardiac catheterization, hemodialysis, hyperbaric medicine, electrocardiography, electroencephalography, electroneuromyography, pulmonary function, inhalation and respiratory therapy and physical therapy services.

(h) *Special rule for certain ancillary services ordered by outside providers and provided by a facility of the Uniformed Services.* If a Uniformed Services facility provides certain ancillary services, prescription drugs or other procedures based on a request from a source other than a Uniformed Services facility and are not incident to any outpatient visit or inpatient services, the reasonable cost will not be based on the usual per diem or per visit rate. Rather, a separate standard rate shall be established based on the cost of the particular high-cost service, drug, or procedure provided. This special rule applies only to services, drugs or procedures having a cost of at least $60. The reasonable cost for the services, drugs or procedures to which this special rule applies shall be calculated and published annually.

(i) *Miscellaneous health care services.* Some outpatient services are provided which may not traditionally be provided in hospitals or which are not traditional clinical specialties or subspecialties. This includes, but is not limited to, land ambulance service, air ambulance service, hyperbaric treatments, dental care services and immunizations.

(1) The charge for ambulance services shall be based on the full costs of operating the ambulance service.

(2) For hyperbaric treatments (such as high pressure oxygenation treatments, burn treatments and decompression treatments in response to diving incidents), charges will be based on the full operating costs of the hyperbaric treatment services.

(3) Charges for dental services (including oral diagnosis and prevention, periodontics, prosthodontics (fixed and removable), implantology, oral surgery, orthodontics, pediatric dentistry and endodontics) will be based on a full cost of the dental services.

(4) The charge for immunizations, allergin extracts, allergic condition tests, and the administration of certain medications when these services are provided in a separate immunizations or shot clinic, will be based on the average full cost of these services, exclusive of any costs considered for purposes of any outpatient visit. A separate charge shall be made for each immunization, injection or medication administered.

* * * * * *

(k) *Special rule for partnership program providers.* In cases in which the professional provider services are provided under the Partnership Program (or similar program operated under the authority of 10 U.S.C. 1096), the professional charges component of the total standard rate will be deleted, as applicable, from the claim for the facility of the Uniformed Services. The third party payer will receive a claim for professional services directly from the individual healthcare provider, who is not an employee or agent of the Department of Defense. Such claims are not covered by 10 U.S.C. 1095 or this part, but are governed by statutory and regulatory requirements of the CHAMPUS program (see 32 CFR part 199). The same is true for the professional services provided on an outpatient basis under the Partnership Program.

(l) *Alternative determination of reasonable costs.* Any third party payer that can satisfactorily demonstrate a prevailing rate of payment in the same geographic area for the same or similar aggregate groups of services that is less than the standard rate (or other amount as determined under paragraphs (f) through (k) of this section) of the facility of the Uniformed Services may, with the agreement of the facility of the Uniformed Services (or other authorized representatives of the United States), limit payments under 10 U.S.C. 1095 to that prevailing rate for that aggregate category of services. The determination of the third party payer's prevailing rate shall be based on a review of valid contractual arrangements with other facilities or providers constituting a majority of the services for which payment is made under the third party payer's plan. This paragraph does not apply to cases covered by § 220.11.

* * * * *

3. Section 220.10 is amended by revising paragraph (c)(1)(ii), as follows:

§ 220.10 Special rules for Medicare supplement plans.

* * * * *

(c) * * *

(1) * * *

(ii) Include adjustments, as appropriate, to identify major components of the all inclusive per diem or per visit rates for which Medicare has special rules.

* * * * *

[FR Doc. 94-23465 Filed 9-23-94; 8:45 am]
BILLING CODE 5000-04-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TN 132-6436a; FRL-5063-9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This action makes corrections to the final rule published on August 4, 1994 (59 FR 39692). The final rule addressed the attainment status of the Memphis and Shelby County area for Ozone.

EFFECTIVE DATE: This action is effective September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Karen Borel, Stationary Source Planning Unit, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street NE., Atlanta, GA 30365. The telephone number is 404/347–3555 X4197.

SUPPLEMENTARY INFORMATION:

Background

This correction clarifies language in the preamble, and corrects a typographical error which incorrectly identified Knox County, Tennessee as a "Nonattainment" area. EPA published a rule designating Knox County as "Unclassifiable/ Attainment" for ozone on September 27, 1993 (58 FR 50271), effective October 27, 1993.

Dated: August 22, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

Correction of Publication

Accordingly, the final rule published on August 4, 1994 at 59 FR 39692 is corrected as follows.

1. In the preamble on page 39696, in the first column, paragraph two, line 21, the words "* * * above a de minimis level * * *" are removed. The sentence, as corrected, reads as follows: "Although approval of NO_X increases is a departure from EPA guidance, EPA believes that the emissions projections demonstrate that the area will continue to maintain the O_3 NAAQS because this area achieved attainment through VOC controls and reductions."

§ 81.343 [Corrected]

2. The attainment status designation table for ozone, beginning on page 39697, is corrected to read as follows:

TENNESSEE—OZONE

Designation area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Nashville Area				
Davidson County		Nonattainment		Moderate.
Rutherford County		Nonattainment		Moderate.
Sumner County		Nonattainment		Moderate.
Williamson County		Nonattainment		Moderate.
Wilson County		Nonattainment		Moderate.
Rest of State		Unclassifiable/Attainment		
Anderson County				
Bedford County				
Benton County				
Bledsoe County				
Blount County				
Bradley County				
Campbell County				
Cannon County				
Carroll County				
Carter County				
Cheatham County				
Chester County				
Claiborne County				
Clay County				
Cocke County				
Coffee County				
Crockett County				
Cumberland County				
DeKalb County				
Decatur County				
Dickson County				
Dyer County				
Fayette County				
Fentress County				
Franklin County				
Gibson County				
Giles County				
Grainger County				
Greene County				
Grundy County				
Hamblen County				
Hamilton County				
Hancock County				
Hardeman County				
Hardin County				
Hawkins County				
Haywood County				
Henderson County				
Henry County				
Hickman County				
Houston County				
Humphreys County				
Jackson County				
Jefferson County				
Johnson County				

TENNESSEE—OZONE—Continued

Designation area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Knox County	10/27/93			
Lake County				
Lauderdale County				
Lawrence County				
Lewis County				
Lincoln County				
Loudon County				
Macon County				
Madison County				
Marion County				
Marshall County				
Maury County				
McMinn County				
McNairy County				
Meigs County				
Monroe County				
Montgomery County				
Moore County				
Morgan County				
Obion County				
Overton County				
Perry County				
Pickett County				
Polk County				
Putnam County				
Rhea County				
Roane County				
Robertson County				
Scott County				
Sequatchie County				
Sevier County				
Shelby County	10/3/94			
Smith County				
Stewart County				
Sullivan County				
Tipton County				
Trousdale County				
Unicoi County				
Union County				
Van Buren County				
Warren County				
Washington County				
Wayne County				
Weakley County				
White County				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 94-23765 Filed 9-23-94; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 112

[SW H-FRL-5078-7]

RIN 2050-AD 30

Oil Pollution Prevention; Non-Transportation-Related Onshore Facilities; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; corrections.

SUMMARY: EPA is making technical corrections to errors in the technical appendices to the final rule for facility response plans required by the Oil Pollution Act (OPA) of 1990, which appeared in the **Federal Register** on July 1, 1994 (59 FR 34070).

EFFECTIVE DATE: August 30, 1994.

FOR FURTHER INFORMATION CONTACT: Bobbie Lively-Diebold, Oil Pollution Response and Abatement Branch, Emergency Response Division (5202G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 at 703-356-8774; the ERNS/SPCC Information line at 202-260-2342; or the RCRA/Superfund Hotline at 800-424-9346 (in the Washington, DC metropolitan area, 703-412-9810). The Telecommunications Device for the Deaf (TDD) Hotline number is 800-553-7672 (in the Washington, DC metropolitan area, 703-412-3323).

SUPPLEMENTARY INFORMATION:

Background

EPA published a final rule in the **Federal Register** on July 1, 1994 (59 FR 34070) revising the Oil Pollution Prevention regulation, 40 CFR part 112, originally promulgated under the Clean Water Act. The revision incorporates new requirements added by the Oil Pollution Act of 1990, 33 U.S.C. 2701 et seq., that direct facility owners and operators to prepare plans for responding to a worst case discharge of oil and to a substantial threat of such a discharge.

Need for Correction

As published, the final rule contained a number of minor technical errors that may prove to be misleading and are in need of clarification. The reasons for these technical changes (including clarifying section references and correcting minor grammatical errors) are, for the most part, self-evident. None of these changes is intended to effect substantive requirements; they only correct inadvertent errors in the July 1, 1994 final rule and ensure consistency within the Appendices to the final rule, and between them and the regulatory text.

Corrections 7 and 8, while also technical and non-substantive in nature, warrant a brief discussion. To avoid confusion, corrections 7 and 8 are made to clarify that the Emergency Notification Phone List and Spill Response Notification Form are each separate parts of Section 1.3.1 of the overall response plan. Thus, items 2 and 3 of Section 1.1 each call for a partial inclusion of Section 1.3.1 (item 2 calls for the Emergency Notification Phone List and item 3 calls for the Spill Response Notification Form). Together, items 2 and 3 call for the complete Section 1.3.1. As published, the final rule incorrectly stated that items 2 and 3 each called for the complete Section 1.3.1. This is being corrected to state that each calls for only part of Section 1.3.1.

In addition, an inaccuracy in the summary section of the preamble to the final rule needs to be noted. The U.S. Environmental Protection Agency regulates *non*-transportation-related facilities under sections 311(j)(1)(C) and 311(j)(5) of the CWA as delegated by Executive Order 12777. The preamble language in one instance incorrectly and inadvertently indicated that the Oil Pollution Prevention regulation applied to transportation-related facilities.

Correction of Publication

PART 112—[CORRECTED]

Accordingly, the final rule is corrected as follows:

1. On page 34110, in the third column, in the first paragraph under section A.2.3, in line 7, "A2(b)" is corrected to read "A.2.2".

2. On page 34111, in the first column, in the first paragraph under section B.2.3, in line 9, "B2(b)" is corrected to read "B.2.2".

3. On page 34112, in the first column, in section 1.2.8, the text which reads "Other definitions are included in § 112.2, section 1.2 of Appendices C and E, and section 3.0 of Appendix F" is corrected to read "Other definitions are included in § 112.2 and section 1.1 of Appendix C".

4. On page 34112, in the third column, in section 4.3, in line 9, the text which reads "section 1.2" is corrected to read "section 1.1".

5. On page 34114, in the third column, in section 7.3, in line 4, the text which reads "for Groups 1" is corrected to read "for Group 1".

6. On page 34115, in the first column, in section 7.4, in line 4, the text which reads "for a facility" is deleted.

7. On page 34124, in the first column, in section 1.1, in item 2, the word "complete" is corrected to read "partial".

8. On page 34124, in the first column, in section 1.1, in item 3, the word "complete" is corrected to read "partial".

9. On page 34135, in the second column, in the heading for section 2.1, the text which reads "Page One—General Information" is corrected to read "General Information".

10. On page 34135, in the second column, in the heading for section 2.2, the text which reads "Page Two—Applicability of Substantial Harm Criteria" is corrected to read "Applicability of Substantial Harm Criteria".

11. On page 34135, in the third column, in the heading for section 2.3, the text which reads "Page Three—Certification" is corrected to read "Certification".

Authority: 33 U.S.C. 1321 and 1361; E.O. 12777 (October 18, 1991), 3 CFR, 1991 comp., p. 351.

Dated: September 19, 1994.

Elliott P. Laws,

Assistant Administrator.

[FR Doc. 94–23764 Filed 9–23–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91–140; DA 94–1013]

Revision of Radio Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction of rule and confirmation of effective date.

SUMMARY: This *Order* confirms that the stay of certain changes to the FCC's multiple ownership rule was lifted on September 16, 1992, and reprints the corrected rule in its entirety. The Mass Media Bureau takes this action to ensure that the correct version of the rule is printed in the Code of Federal Regulations. Because the stay was lifted in an ordering clause to a Commission document but not in the Federal Register summary associated with that document, the lifting of the stay was not recognized by the Federal Register. As a result, the rule is currently printed in the Code of Federal Regulations as if the stay was still in effect. This *Order* is intended solely to correct the outdated version of the multiple ownership rule; no substantive rule changes have been made.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Jane Hinckley Halprin, Mass Media Bureau, Policy and Rules Division, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order

Adopted: September 15, 1994
Released: September 19, 1994

In the Matter of: Revision of Radio Rules and Policies.

By the Acting Chief, Mass Media Bureau:

1. In its *Report and Order* in MM Docket No. 91–140, 7 FCC Rcd 2755 (1992), 57 FR 18089 (April 29, 1992), the Commission amended 47 CFR 73.3555. The effective date of the changes adopted in the *Report and Order* was subsequently deferred pending resolution of petitions for reconsideration. *Order Deferring Effective Date* in MM Docket No. 91–140, FCC 92–351 (released July 30, 1992), 57 FR 35763 (Aug. 11, 1992). The stay of the effective date was lifted by *Memorandum Opinion and Order* in MM Docket No. 91–140, 7 FCC Rcd 6387 (1992), 57 FR 42701 (September 16, 1992). Because the stay was lifted in an ordering clause to the document rather than in the Appendix that contained the modified rules, the lifting of the stay was not picked up by the Federal Register. As a result, the rule is currently printed in the Code of Federal Regulations as if the stay was still in effect.

2. This *Order* is intended solely to correct the outdated version of Section 73.3555 currently printed in the Code of Federal Regulations. No substantive changes have been made to the rules; notice and comment are therefore unnecessary. *See* 5 U.S.C. 553(b)(3). The correct version of § 73.3555 is printed in its entirety below.

3. Accordingly, it is ordered that 47 CFR § 73.3555 is amended as set forth below.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Renee Licht,

Acting Chief, Mass Media Bureau.

Rule Changes

Part 73 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 73—RADIO BROADCAST SERVICES

1. The Authority Citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334.

2. The stay of the effective date of § 73.3555 was lifted by publication of a *Memorandum Opinion and Order* in MM Docket No. 91–140 in the **Federal Register** at 57 FR 42701 (September 16, 1992), and § 73.3555 is revised to read as follows:

§ 73.3555 Multiple ownership.

(a)(1) *Radio contour overlap rule.* No license for an AM or FM broadcasting station shall be granted to any party (including all parties under common control) if the grant of such license will result in overlap of the principal community contour of that station and the principal community contour of any other broadcasting station directly or indirectly owned, operated, or controlled by the same party, except that such license may be granted in connection with a transfer or assignment from an existing party with such interests, or in the following circumstances:

(i) In radio markets with 14 or fewer commercial radio stations, a party may own up to 3 commercial radio stations, no more than 2 of which are in the same service (AM or FM), provided that the owned stations, if other than a single AM and FM station combination, represent less than 50 percent of the stations in the market.

(ii) In radio markets with 15 or more commercial radio stations, a party may own up to 2 AM and 2 FM commercial stations, provided, however, that evidence that grant of any application will result in a combined audience share exceeding 25 percent will be considered *prima facie* inconsistent with the public interest.

Note to paragraph (a)(1)(ii): When evaluating audience share evidence submitted under § 73.3555(a)(1)(ii), the Commission will consider data that eliminates statistical anomalies, provides a better focused survey area or includes revenue data or other relevant information. Where applicants certify that they do not have readily available audience share data, they may substitute other information that can serve as a proxy for such data. *See Memorandum Opinion and Order* in MM Docket No. 91–140, 7 FCC Rcd 6387 (1992), 57 FR 42701 (Sept. 16, 1992).

(iii) Overlap between two stations in different services is permissible if neither of those two stations overlaps a third station in the same service.

(2)(i) Where the principal community contours of two radio stations overlap and a party (including all parties under common control) with an attributable ownership interest in one such station brokers more than 15 percent of the broadcast time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraphs (a) and (e) of this section. This limitation shall apply regardless of the source of the brokered programming supplied by the party to the brokered station.

(ii) Every time brokerage agreement of the type described in paragraph (a)(2)(i) of this section shall be undertaken only pursuant to a signed written agreement that shall contain a certification by the licensee or permittee of the brokered station verifying that it maintains ultimate control over the station's facilities, including specifically control over station finances, personnel and programming, and by the brokering station that the agreement complies with the provisions of paragraphs (a)(1) and (e)(1) of this section.

(iii) Any party operating in conflict with the requirements of paragraph (a)(2)(ii) of this section on September 16, 1992 shall come into compliance within one year thereafter.

(3) For purposes of this paragraph:

(i) The "principal community contour" for AM stations is the predicted or measured 5 mV/m groundwave contour computed in accordance with § 73.183 or § 73.186 and for FM stations is the predicted 3.16 mV/m contour computed in accordance with § 73.313.

(ii) The number of stations in a radio market is the number of commercial stations whose principal community contours overlap, in whole or in part, with the principal community contours of the stations in question (*i.e.*, the station for which an authorization is sought and any station in the same service that would be commonly owned whose principal community contour overlaps the principal community contour of that station). In addition, if the area of overlap between the stations in question is overlapped by the principal community contour of a commonly owned station or stations in a different service (AM or FM), the number of stations in the market includes stations whose principal community contours overlap the principal community contours of such commonly owned station or stations in a different service.

(iii) A station's "audience share" is the average number of persons age 12 or older on an average quarter hour basis, Monday-Sunday, 6 a.m.-midnight, who listen to the station, expressed as a percentage of the average number of persons listening to AM and FM stations in that radio metro market or a recognized equivalent, in which a majority of the overlap between the stations in question takes place. The "combined audience share" is the total audience share of all AM or FM stations that would be under common ownership or control following a proposed acquisition. In situations where no metro market or recognized equivalent exists, the relevant audience share data are the data for all counties that are within the principal community contours of the stations in question, in whole or in part.

(iv) "Time brokerage" is the sale by a licensee of discrete blocks of time to a "broker" that supplies the programming to fill that time and sells the commercial spot announcements in it.

(b) *Television contour overlap (duopoly) rule.* No license for a TV broadcast station shall be granted to any party (including all parties under common control) if the grant of such license will result in overlap of the Grade B contour of that station (computed in accordance with § 73.684) and the Grade B contour of any other TV broadcast station directly or indirectly owned, operated, or controlled by the same party.

(c) *One-to-a-market ownership rule.* No license for an AM, FM or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates or controls one or more such broadcast stations and the grant of such license will result in:

(1) The predicted or measured 2 mV/m groundwave contour of an existing or proposed AM station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community of license of an existing or proposed TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s), computed in accordance with § 73.684, encompassing the entire community of license of the AM station; or

(2) The predicted 1 mV/m contour of an existing or proposed FM station, computed in accordance with § 73.313, encompassing the entire community of

license of an existing or proposed TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s), computed in accordance with § 73.684, encompassing the entire community of license of the FM station.

(d) *Daily newspaper cross-ownership rule.* No license for an AM, FM or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates or controls a daily newspaper and the grant of such license will result in:

(1) The predicted or measured 2 mV/m contour of an AM station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community in which such newspaper is published; or

(2) The predicted 1 mV/m contour for an FM station, computed in accordance with § 73.313, encompassing the entire community in which such newspaper is published; or

(3) The Grade A contour of a TV station, computed in accordance with § 73.684, encompassing the entire community in which such newspaper is published.

(e)(1) *National multiple ownership rule.* No license for a commercial AM, FM or TV broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors, directly or indirectly, owning, operating or controlling, or having a cognizable interest in:

(i) More than 18 AM or more than 18 FM stations, or more than 20 AM or more than 20 FM stations two years after the effective date of this rule, provided, however, that an entity may have an attributable but noncontrolling interest in an additional 3 AM and 3 FM stations that are small business controlled or minority-controlled;

(ii) More than 14 television stations; or

(iii) More than 12 television stations that are not minority-controlled.

(2) No license for a commercial TV broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors, directly or indirectly, owning, operating or controlling, or having a cognizable interest in, either:

(i) TV stations which have an aggregate national audience reach exceeding thirty (30) percent, or

(ii) TV stations which have an aggregate national audience reach exceeding twenty-five (25) percent and which are not minority-controlled.

(3) For purposes of this paragraph:

(i) *National audience reach* means the total number of television households in the Arbitron Area of Dominant Influence (ADI) markets in which the relevant stations are located divided by the total national television households as measured by ADI data at the time of a grant, transfer or assignment of a license. For purposes of making this calculation, UHF television stations shall be attributed with 50 percent of the television households in their ADI market. Where the relevant application forms require a showing with respect to audience reach and the application relates to an area where Arbitron ADI market data are unavailable, then the applicant shall make a showing as to the number of television households in its market. Upon such a showing, the Commission shall make a determination as to the appropriate audience reach to be attributed to the applicant.

(ii) *TV broadcast station or TV station* excludes stations which are primarily satellite operations.

(iii) *Minority-controlled* means more than 50 percent owned by one or more members of a minority group.

(iv) *Minority* means Black, Hispanic, American Indian, Alaska Native, Asian and Pacific Islander.

(v) *Small business* means an individual or business entity which, at the time of application to the Commission, had, including all affiliated entities under common control, annual revenues of less than $500,000 and assets of less than $1,000,000.

(f) This section is not applicable to noncommercial educational FM and noncommercial educational TV stations.

Note 1: The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

Note 2: In applying the provisions of this section, ownership and other interests in broadcast licensees, cable television systems and daily newspapers will be attributed to their holders and deemed cognizable pursuant to the following criteria:

(a) Except as otherwise provided herein, partnership and direct ownership interests and any voting stock interest amounting to 5% or more of the outstanding voting stock of a corporate broadcast licensee, cable television system or daily newspaper will be cognizable;

(b) No minority voting stock interest will be cognizable if there is a single holder of more than 50% of the outstanding voting stock of the corporate broadcast licensee, cable television system or daily newspaper in which the minority interest is held;

(c) Investment companies, as defined in 15 U.S.C. 80a–3, insurance companies and banks holding stock through their trust departments in trust accounts will be considered to have a cognizable interest only if they hold 10% or more of the outstanding voting stock of a corporate broadcast licensee, cable television system or daily newspaper, or if any of the officers or directors of the broadcast licensee, cable television system or daily newspaper are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

(d) Attribution of ownership interests in a broadcast licensee, cable television system or daily newspaper that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50%, it shall not be included for purposes of this multiplication. [For example, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of "Licensee," then X's interest in "Licensee" would be 25% (the same as Y's interest since X's interest in Y exceeds 50%), and A's interest in "Licensee" would be 2.5% (0.1×0.25). Under the 5% attribution benchmark, X's interest in "Licensee" would be cognizable, while A's interest would not be cognizable.]

(e) Voting stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust. An otherwise qualified trust will be ineffective to insulate the grantor or beneficiary from attribution with the trust's assets unless all voting stock interests held by the grantor or beneficiary in the relevant broadcast licensee, cable television system or daily newspaper are subject to said trust.

(f) Holders of non-voting stock shall not be attributed an interest in the issuing entity. Holders of debt and instruments such as warrants, convertible debentures, options or other non-voting interests with rights of conversion to voting interests shall not be attributed unless and until conversion is effected.

(g)(1) A limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the licensee or system so certifies.

(2) In order for a licensee or system to make the certification set forth in paragraph

(g)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. The criteria which would assume adequate insulation for purposes of this certification are described in the *Memorandum Opinion and Order* in MM Docket No. 83–46, FCC 85–252 (released June 24, 1985), as modified on reconsideration in the *Memorandum Opinion and Order* in MM Docket No. 83–46, FCC 86–410 (released November 28, 1986). Irrespective of the terms of the certificate of limited partnership or partnership agreement, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners in the management or operation of the media-related businesses of the partnership.

(h) Officers and directors of a broadcast licensee, cable television system or daily newspaper are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in businesses in addition to its primary business of broadcasting, cable television service or newspaper publication, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a broadcast licensee, cable television system or daily newspaper, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the broadcast licensee, cable television system or daily newspaper subsidiary, and a statement properly documenting this fact is submitted to the Commission. [This statement may be included on the appropriate Ownership Report.] The officers and directors of a sister corporation of a broadcast licensee, cable television system or daily newspaper shall not be attributed with ownership of these entities by virtue of such status.

(i) Discrete ownership interests will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

(1) The sum of the interests held by or through "passive investors" is equal to or exceeds 10 percent; or

(2) The sum of the interests other than those held by or through "passive investors" is equal to or exceeds 5 percent; or

(3) The sum of the interests computed under paragraph (i)(1) of this section plus the sum of the interests computed under paragraph (i)(2) of this section is equal to or exceeds 10 percent.

Note 3: In cases where record and beneficial ownership of voting stock is not identical (*e.g.*, bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, investment advisors holding stock in their own names for the benefit of clients, and insurance companies holding stock), the party having the right to determine how the stock will be voted will be considered to own it for purposes of these rules.

Note 4: Paragraphs (a) through (e) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities, and will not apply to applications for increased power for Class C stations, to applications for assignment of license or transfer of control filed in accordance with § 73.3540(f) or § 73.3541(b), or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy if no new or increased overlap would be created between commonly owned, operated or controlled broadcast stations in the same service and if no new encompassment of Communities proscribed in paragraphs (c) and (d) of this section as to commonly owned, operated or controlled broadcast stations or daily newspaper would result. Said paragraphs will apply to all applications for new stations, to all other applications for assignment or transfer, and to all applications for major changes in existing stations except major changes that will result in overlap of contours of broadcast stations in the same service with each other no greater than already existing. (The resulting areas of overlap of contours of such broadcast stations with each other in such major change cases may consist partly or entirely of new terrain. However, if the population in the resulting areas substantially exceeds that in the previously existing overlap areas, the Commission will not grant the application if it finds that to do so would be against the public interest, convenience or necessity.) Commonly owned, operated or controlled broadcast stations with overlapping contours or with community-encompassing contours prohibited by this section may not be assigned or transferred to a single person, group or entity, except as provided above in this note and by § 73.3555(a). If a commonly owned, operated or controlled broadcast station and daily newspaper fall within the encompassing proscription of this section, the station may not be assigned to a single person, group or entity if the newspaper is being simultaneously sold to such single person, group or entity.

Note 5: Paragraphs (a) through (e) of this section will not be applied to cases involving television stations that are "satellite" operations. Such cases will be considered in accordance with the analysis set forth in the *Report and Order* in MM Docket No. 87–8, FCC 91–182(released July 8, 1991), in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. An authorized and operating "satellite" television station, the Grade B contour of which overlaps that of a commonly owned, operated, or controlled "non-satellite" parent television broadcast station, or the Grade A contour of which completely encompasses the community of publication of a commonly owned, operated, or controlled daily newspaper, or the community of license of a commonly owned, operated, or controlled AM or FM broadcast station, or the community of license of which is completely encompassed by the 2 mV/m contour of such AM broadcast station or the 1 mV/m contour of such FM broadcast station, may subsequently become a "non-satellite" station under the circumstances described in the aforementioned *Report and Order* in MM Docket No. 87–8. However, such commonly owned, operated, or controlled "non-satellite" television stations and AM or FM stations with the aforementioned community encompassment, may not be transferred or assigned to a single person, group, or entity except as provided in Note 4 of this section. Nor shall any application for assignment or transfer concerning such "non-satellite" stations be granted if the assignment or transfer would be to the same person, group or entity to which the commonly owned, operated, or controlled newspaper is proposed to be transferred, except as provided in Note 4 of this section.

Note 6: For the purposes of this section a daily newspaper is one which is published four or more days per week, which is in the English language and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

Note 7: The Commission will entertain requests to waive the restrictions of paragraph (c) of this section on a case-by-case basis. The Commission will look favorably upon waiver applications that meet either of the following two standards:

(1) Those involving radio and television station combinations in the top 25 television markets where there will be at least 30 separately owned, operated and controlled broadcast licensees after the proposed combination, as determined by counting television licensees in the relevant ADI television market and radio licensees in the relevant television metropolitan market;

(2) Those involving "failed" broadcast stations that have not been operated for a substantial period of time, *e.g.*, four months, or that are involved in bankruptcy proceedings. For the purposes of determining the top 25 ADI television markets, the relevant ADI television market, and the relevant television metropolitan market for each prospective combination, we will use the most recent *Arbitron Ratings Television ADI Market Guide*. We will determine that number of radio stations in the relevant television metropolitan market and the number of television licensees within the relevant ADI television market based on the most recent Commission ownership records.

Other waiver requests will be evaluated on a more rigorous case-by-case basis, as set forth in the *Second Report and Order* in MM Docket No. 87–7, FCC 88–407, released February 23, 1989, and *Memorandum Opinion and Order* in MM Docket No. 87–7, FCC 89–256, released August 4, 1989.

Note 8: Paragraph (a)(1) of this section will not apply to an application for an AM station license in the 535–1605 kHz band where grant of such application will result in the overlap of 5 mV/m groundwave contours of the proposed station and that of another AM

station in the 535–1605 kHz band that is commonly owned, operated or controlled if the applicant shows that a significant reduction in interference to adjacent or co-channel stations would accompany such common ownership. Such AM overlap cases will be considered on a case-by-case basis to determine whether common ownership, operation or control of the stations in question would be in the public interest. Applicants in such cases must submit a contingent application of the major or minor facilities change needed to achieve the interference reduction along with the application which seeks to create the 5 mV/m overlap situation.

Note 9: Paragraph (a)(1) of this section will not apply to an application for an AM station license in the 1605–1705 kHz band where grant of such application will result in the overlap of the 5 mV/m groundwave contours of the proposed station and that of another AM station in the 535–1605 kHz band that is commonly owned, operated or controlled. Paragraphs (d)(1)(i) and (d)(1)(ii) of this section will not apply to an application for an AM station license in the 1605–1705 kHz band by an entity that owns, operates, controls or has a cognizable interest in AM radio stations in the 535–1605 kHz band.

Note 10: Authority for joint ownership granted pursuant to Note 9 will expire at 3 a.m. local time on the fifth anniversary for the date of issuance of a construction permit for an AM radio station in the 1605–1705 kHz band.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–02; Notice 05]

RIN [2127–AF14]

Federal Motor Vehicle Safety Standards; Compressed Natural Gas Fuel Container Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule establishes a new Federal motor vehicle safety standard, Standard No. 304, *Compressed Natural Gas Fuel Containers*, that specifies performance requirements applicable to compressed natural gas (CNG) fuel containers: a pressure cycling test evaluates a container's durability; a burst test evaluates a container's initial strength; and a bonfire test evaluates a container's pressure relief characteristics. In addition, the final rule specifies labeling requirements for CNG containers. The purpose of this new standard is to reduce deaths and injuries occurring from fires that result from fuel leakage from CNG containers.

DATES: *Effective Date:* The Standard becomes effective March 27, 1995.

Incorporation by reference: The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 27, 1995.

Petitions for Reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than October 26, 1994.

ADDRESSES: Petitions for reconsideration of this rule should refer to Docket 93–02; Notice 5 and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, NRM–01.01, Special Projects Staff, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4931).

SUPPLEMENTARY INFORMATION:

Outline

I. Background

A. General Information

Natural gas is a vapor that is lighter than air at standard temperature and pressure.[1] When used as a motor fuel, natural gas is typically stored on-board a vehicle in cylindrical containers at a pressure of approximately 20,684 kPa pressure (3,000 psi). Natural gas is kept in this compressed state to increase the amount that can be stored on-board the vehicle. This in turn serves to increase the vehicle's driving range. Since natural gas is a flammable fuel and is stored under high pressure, natural gas containers pose a potential risk to motor vehicle safety.

Vehicles powered by CNG have not been numerous to date, although they are increasing. The number of CNG vehicles in the United States more than doubled from 10,300 in 1990 to 23,800 at the end of 1992. The number of CNG vehicles is projected to again double to an estimated 50,800 vehicles in 1994. As discussed in detail in a final rule regarding CNG vehicles published on April 25, 1994, recent Federal legislation, as well as the need to meet environmental and energy security goals, will lead to greater increases in the production and use of these vehicles. (59 FR 19648).

B. Previous Agency Rulemakings

On October 12, 1990, NHTSA published an advance notice of proposed rulemaking (ANPRM) to explore whether the agency should issue Federal motor vehicle safety standards (FMVSSs) applicable to CNG fuel containers and the fuel systems of motor vehicles using CNG or liquified petroleum gas (LPG) as a motor fuel. (55 FR 41561). The ANPRM sought comment about the crash integrity of vehicle fuel systems, the integrity of fuel storage containers, and pressure relief for such containers.

On January 21, 1993, NHTSA published a notice of proposed rulemaking (NPRM) in which the agency proposed to establish a new FMVSS specifying performance requirements for vehicles fueled by CNG. (58 FR 5323). The proposal was based on comments received in response to the ANPRM and other available information. The NPRM was divided into two segments: (1) vehicle requirements that focus on the integrity of the entire fuel system, and (2) equipment requirements that focus on the fuel containers alone.

NHTSA decided to model the proposed requirements applicable to CNG fueled motor vehicles on Standard No. 301, *Fuel System Integrity*. Standard

[1] Standard temperature is 0° Celsius or 32° Fahrenheit and standard pressure is 101.4 kiloPascals (kPa) or 147.7 pounds per square inch (psi).

No. 301 specifies performance requirements for vehicles that use fuel with a boiling point above 32 °Fahrenheit (i.e., fuels that are liquid under standard temperature and pressure). Vehicles manufactured to use only CNG are not subject to Standard No. 301 since CNG has a boiling point below 32 °F. Standard No. 301 limits the amount of fuel spillage from "light vehicles"[2] during and after frontal, rear, and lateral barrier crash tests and a static rollover test. The Standard also limits fuel spillage from school buses with a GVWR over 10,000 pounds after being impacted by a moving contoured barrier at any point and any angle. By basing the CNG rulemaking on Standard No. 301, the agency believed that passengers of CNG vehicles would be afforded a level of safety comparable to that provided passengers of vehicles fueled by gasoline or diesel fuel.

With respect to the "vehicle" requirements for CNG vehicles, NHTSA proposed that the fuel system integrity requirements would include frontal, rear, and lateral barrier crash tests for light vehicles, and a moving contoured barrier crash test for large school buses. The agency proposed that fuel system integrity would be determined by measuring the fuel system's pressure drop after the crash test rather than fuel spillage, since CNG is a vapor and not a liquid. The allowable pressure drop for CNG fueled vehicles would be equivalent, as measured by the energy content of the lost fuel, to the allowable spillage of gasoline during Standard No. 301 compliance testing.

With respect to the "equipment" requirements for CNG containers, NHTSA proposed a definition for "CNG fuel tank" and performance requirements that would apply to all such fuel containers manufactured for use as part of a fuel system on any motor vehicle, including aftermarket containers.[3] Thus, while vehicles with a GVWR over 10,000 pounds (other than school buses) would not be subject to Standard No. 303, the CNG containers in those vehicles would be subject to the equipment requirements. The agency proposed that each CNG container would be subject to a pressure cycling test to evaluate container durability and a pressure burst test to evaluate the container's initial strength as well as its resistance to degradation over time. In addition, the NPRM proposed requirements to regulate how the container "vents" its contents under specified conditions of elevated temperature and pressure.

[2] Light vehicles include passenger cars, multipurpose passenger vehicles (MPV's), trucks, and buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less.

[3] Among the terms used to describe CNG fuel tanks are tanks, containers, cylinders, and high pressure vessels. The agency will refer to them as "containers" throughout this document.

II. Comments on the Proposal

NHTSA received a large number of comments to the docket addressing the CNG proposal. The commenters included manufacturers of CNG containers, vehicle manufacturers, trade associations, other CNG-oriented businesses, research organizations, State and local governments, the United States Department of Energy, and energy companies. In addition, NHTSA met with the Compressed Gas Association (CGA) and the Natural Gas Vehicle Coalition (NGVC) and had telephone conversations and meetings with some of the commenters. A record of each of these contacts may be reviewed in the public docket.

The commenters generally believed that a Federal safety standard regulating the integrity of CNG fuel systems and fuel containers is necessary and appropriate. In fact, some commenters, including the CGA, the NGVC, and CNG container manufacturers stated that NHTSA should issue a Federal standard as soon as possible to facilitate the safe and expeditious introduction of CNG fueled vehicles. With respect to the equipment requirements, the commenters generally believed that Federal requirements about CNG fuel container integrity are needed and should be implemented as quickly as possible. The CNG vehicle industry, led by CGA and NGVC, expressed concern that lack of Federal regulations has created a problem for the industry, given the issuance of potentially conflicting industry and State regulations. Therefore, these commenters stated that CNG container manufacturers may not know the appropriate standards to which they should manufacture their containers. In contrast, the American Automobile Manufacturers Association (AAMA) stated that the vehicle system requirements are sufficient to regulate the overall integrity of CNG fueled vehicles and that separate requirements for CNG fuel containers are not needed. Nevertheless, AAMA provided detailed comments about the container proposal in case the agency decided to issue separate container requirements.

The commenters addressed a variety of issues discussed in the NPRM. These issues include the appropriateness of adopting the American National Standards Institute (ANSI) voluntary industry standard known as NGV2;[4] the pressure cycling requirements and test procedures; the burst requirements and test procedures, including the proposed safety factor, hold time interval, and need for sequential testing; the pressure relief requirements and test procedures, including types of pressure relief devices, shielding, test gas, test pressure, test fuel, and fuel pan depth; labeling requirements; leadtime; costs; and benefits.

NHTSA issued an SNPRM proposing to pattern the burst requirements more closely on NGV2, based on its consultation with other Federal agencies, its review of comments to the January 1993 proposal, and other available information. (58 FR 68846, December 29, 1993). NHTSA proposed a burst test that would link the use of particular designs and materials to compliance with safety factors tailored to those designs and materials. NHTSA requested comment on the appropriateness of requiring CNG containers to meet design and material requirements, such as those specified in NGV2, and to meet safety factors tailored to those requirements. As an alternative approach, the agency asked whether it should specify a catch-all high end safety factor for any container whose design and materials are not specified in NGV2.

Most commenters supported the proposal to incorporate NGV2 into the Federal standard. However, AAMA and Ford opposed the design and material specific approach of NGV2.

III. Agency's Decision

A. Overview

In today's final rule, NHTSA is issuing a new Federal motor vehicle safety standard, Standard No. 304, *Compressed Natural Gas Fuel Containers*, that specifies performance requirements applicable to a CNG fuel container's durability, strength, and venting. A pressure cycling test evaluates a container's durability by requiring a container to withstand, without any leakage, 18,000 cycles of pressurization and depressurization. This requirement helps to ensure that a CNG container is capable of sustaining the cycling loads imposed on the container during refuelings over its entire service life. A burst test evaluates a container's initial strength and resistance to degradation over time. This requirement helps to ensure that a

[4] NGV2 is a recently issued voluntary industry standard that was adopted by the ANSI and addresses CNG fuel containers. It was developed by an industry working group that included container manufacturers, CNG users, and utilities.

container's design and material are appropriately strong over the container's life. A bonfire test evaluates a container's pressure relief characteristics when pressure builds in a container, primarily due to temperature rise. In addition, the final rule specifies labeling requirements for CNG fuel containers.

As previously mentioned, the agency has issued a final rule establishing a new Federal motor vehicle safety standard, Standard No. 303, *Fuel System Integrity of Compressed Natural Gas Vehicles*, that specifies vehicle performance requirements applicable to the fuel system of a CNG fueled vehicle. As explained in that final rule, the fuel system integrity requirements are comparable to those requirements in Standard No. 301. Like that Standard, the new requirements limit the amount of fuel leakage in specified frontal, rear, and lateral barrier crash tests for light vehicles and a moving contoured barrier crash test for school buses with a GVWR over 10,000 pounds.

NHTSA believes that CNG containers must be evaluated in all possible failure modes and environments to which they may be subjected. Since the requirements contained in today's final rule do not address all these situations, the agency is currently investigating other possible requirements for CNG fuel containers and anticipates issuing a SNPRM that would propose performance requirements applicable to such characteristics as a CNG fuel container's internal and external resistance to corrosion, brittle fracture, fragmentation, and external damage caused by incidental contact with road debris or mechanical damage during the vehicle's operation. The agency tentatively believes that these additional performance requirements are critical for determining a CNG container's safety. In addition, the agency anticipates proposing additional labeling requirements that should provide critical safety information about inspecting a CNG container and its service life.

NHTSA notes that it has no statutory authority to regulate certain aspects involving CNG containers, including inspection requirements during the manufacturing process, in-use inspection requirements, and retest requirements during use.

B. Adopting Industry Standards

In the NPRM, NHTSA explained its decision to propose pressure cycling and burst tests and requirements. While the agency's proposal was based on NGV2, the agency decided not to propose certain provisions of the voluntary industry standard that the agency tentatively believed might unreasonably restrict future designs. Similarly, NHTSA decided not to propose regulations issued by the Research and Special Programs Administration (RSPA)[5] for CNG storage containers used on motor vehicles, explaining that the RSPA regulations do not address the conditions unique to the motor vehicle environment (e.g., increased cycling due to refueling and pressure relief when the cylinder is less than full). NHTSA further explained that in contrast to RSPA, NHTSA does not typically regulate design and materials since NHTSA is statutorily directed to issue performance-based safety standards.

NGVC and several CNG container manufacturers stated that NHTSA should adopt the voluntary industry standard that has been developed by the CNG industry working group. In support of this request, the American Gas Association (AGA) cited a 1982 Office of Management and Budget Circular that states "It is the policy of the Federal Government to (a) Rely on voluntary standards * * * whenever feasible and consistent with law and regulation pursuant to law * * *." AGA and NGVC believed that the voluntary standards provide a higher level of safety than the regulations proposed by NHTSA. They further stated that if NHTSA were unable to adopt NGV2 due to its prescriptive nature, then NHTSA should still allow automobile and equipment manufacturers the option of certifying to the industry standard by referencing NGV2 in the regulations.

In promulgating a CNG container standard, NHTSA has sought to the extent possible to adopt the tests and requirements set forth in NGV2. NHTSA was limited in its ability to do this by the National Traffic and Motor Vehicle Safety Act (Safety Act, 49 U.S.C. 30111), which commands the agency to issue "motor vehicle safety standards" as minimum standards of motor vehicle performance that are practicable, meet the need for motor vehicle safety, and are stated in objective terms. NHTSA found it necessary to modify certain elements of NGV2 to be consistent with this statutory mandate. For instance, the agency has not incorporated those aspects of NGV2 that are stated in nonobjective terms (e.g., a container shall not show "evidence" of deterioration or failure) NHTSA has decided to incorporate NGV2's design and material requirements since the agency has been unable to find or develop a meaningful dynamic performance requirement that would adequately evaluate a container's initial strength and susceptibility to degradation over time. The agency believes that the requirements are no more specific than necessary to achieve these safety purposes.

NHTSA notes that it would be impermissible under the Safety Act for the agency to adopt FMVSS provisions referencing NGV2 in its entirety and stating that automobile and equipment manufacturers had the option of certifying compliance to NGV2 by referencing this voluntary industry standard. The Safety Act provides for manufacturer self-certification with respect to FMVSSs only. To be part of a FMVSS, the provisions of a voluntary industry standard must fully meet all of the requirements of the Safety Act. Since all of NGV2 does not meet these requirements, NGV2 may not be incorporated in its entirety. Even if NGV2 met these requirements, NGV2 could not be incorporated in the FMVSS except to the extent that the FMVSS made compliance with NGV2 mandatory.

C. Pressure Cycling Test

In the NPRM, NHTSA proposed pressure cycling requirements that would require that the fuel container withstand a cycling test at ambient temperature, without any leakage or deformation exceeding one percent of any circumference. In the test, the container would be hydrostatically pressurized to the service pressure, then to not more than 10 percent of the service pressure, for 13,000 cycles. The container would next be hydrostatically pressurized to 125 percent of the service pressure, then to not more than 10 percent of the service pressure, for 5,000 cycles. The cycling rate would not exceed ten cycles per minute.

1. Number of Cycles

The proposed cycling requirements were intended to establish minimum levels of safety performance for the durability of CNG fuel containers used in motor vehicles. The agency stated its tentative belief that the requirements are consistent with provisions in NGV2 and with RSPA regulations for containers used to transport CNG. The agency believed that the pressure cycling requirement would help to assure that a CNG container is capable of sustaining the cycling loads imposed on the container during refuelings. The number of cycles specified in the proposal, 13,000 plus 5,000, is representative of

[5] RSPA is an administration within the United States Department of Transportation that among other things regulates the transportation of hazardous materials.

four refuelings per day, 300 days per year, for 15 years.

AAMA, Norris, and Thomas commented on the number of pressure cycles. These commenters stated that the proposed number of cycles was excessive and not representative of the actual operating conditions the CNG containers would typically experience. AAMA and Norris stated that cycling the container at 125 percent of service pressure for 5,000 cycles would be adequate. Thomas made inconsistent statements about the appropriate number of cycles. On the one hand, it stated that 9,000 cycles at service pressure would be more reasonable than the proposed number of cycles. On the other hand, it stated that the agency should adopt NGV2 which specifies 18,000 cycles.

After reviewing the comments and other available information, NHTSA continues to believe that the proposed number of pressure cycles accurately represents the extreme conditions that CNG fuel containers could experience during their lifetime, with a margin of safety. This is based on the large number of cycles to which fleet vehicles are subjected. The agency believes that the 5,000 cycles suggested by AAMA and Norris would not ensure the safety of vehicles that experience multiple refuelings each day, such as taxis and other fleets. NHTSA further notes that the number of cycles being adopted is consistent with the cycles in NGV2 and therefore establishes a minimum level of safety that is consistent with NGV2, a standard supported by a large majority of the commenters. Accordingly, the agency has determined that a CNG fuel container will be subject to 18,000 pressure cycles.

2. Failure Criteria

In the NPRM, NHTSA proposed that a CNG fuel container would have to meet two test criteria to pass the pressure cycling test: (1) No leakage, and (2) no permanent circumferential deformation greater than one percent. The agency proposed these two criteria to provide objective means of evaluating a container's durability during compliance testing. NHTSA adopted the no leakage portion of the proposal from NGV2's pressure cycling test. The one percent deformation level, which is not in NGV2's pressure cycling test, was based on the Society of Automotive Engineers (SAE) Recommended Practice J10, August 1985, a requirement involving the performance of metal air brake reservoirs. The agency proposed a limit on circumferential deformation to aid in determining when a container's failure was impending.

No commenters objected to the no leakage criterion. Accordingly, the agency has adopted the no leakage requirement in the final rule. The agency believes that specifying that containers "shall not leak" provides an objective measure that will ensure that a container maintains its integrity by retaining its contents under pressure.

Sixteen commenters addressed the issue of the allowable circumferential deformation criterion. The commenters were NGVC, Brunswick, Pressed Steel Tank (PST), Structural Composites Industry (SCI), Tecogen, CGA, AAMA, Amoco, Alusuisse, Oklahoma Gas, ARC, Flxible, Fiber Dynamics, Norris, Comdyne, and EDO. All the commenters, except Brunswick, believed that the agency should not include a deformation requirement in the pressure cycling or burst tests. The commenters believed that the test requirement is not appropriate for all container materials and designs. They stated that due to the nature of the different materials used in these containers, and their different rates of deformation under load, some materials such as fiberglass, would deform more than others, such as steel. The commenters also stated that deformation was not an indicator of impending failure and that the SAE brake reservoir test was not appropriate for a CNG fuel container application.

NHTSA has decided not to adopt the one percent circumferential deformation requirement. In proposing this criterion, NHTSA tentatively concluded that it would be an appropriate indicator of the fuel container's durability characteristics. However, as the comments note, it is not an appropriate criterion because of the differing construction and materials used for CNG fuel container applications. After reviewing the comments and other available information, the agency now believes that limiting the circumferential deformation is not a meaningful way to determine a container's strength or impending failure, since the larger deformation experienced by some materials does not necessarily represent these characteristics. Instead, the agency believes that the no-leakage requirement, by itself, is the appropriate criterion to define a container failure, after being subjected to the pressure cycling test.

Brunswick further commented that some container designs, such as full-wrapped composite containers, would deform in the axial direction in addition to the circumferential direction. To account for axial deformation, Brunswick recommended allowing a maximum five percent volumetric expansion of the container.[6] Brunswick stated that this test is used to assure that the container material exhibits elastic behavior at expected operating conditions.

NHTSA agrees with Brunswick's statement that some container designs deform in the axial direction. Nevertheless, the agency believes that measuring volumetric expansion would not provide an appropriate measure of a container's impending failure in a destructive test (i.e., where the container cannot be used again). In addition, the NPRM provided no notice to amend the standard to measure such expansion in the axial direction. Since the pressure cycling and burst tests being adopted in this rule are capable of evaluating a CNG container's durability, the agency believes that another non-destructive test would be redundant and therefore is not needed. The agency further notes that the five percent maximum level of expansion would not provide a meaningful measure of a container's impending failure, since this level is based on a container's performance under less stringent test conditions.

D. Burst Test

1. Safety Factor

With respect to the burst test, NHTSA proposed that a CNG fuel container would have to withstand an internal hydrostatic pressure of 3.50 times the service pressure for 60 seconds, without any leakage or circumferential deformation over one percent. The multiple of the internal hydrostatic pressure, 3.50, is known as the safety factor. The agency tentatively concluded that the burst test, together with a pressure cycling test, would be sufficient to assure adequate levels of safety performance for both the strength and durability of CNG fuel containers used in motor vehicles.

The proposal of a burst test with a safety factor was based in part on NGV2. NGV2 specifies several sets of detailed material and design requirements. For each set of those requirements, NGV2 specifies a unique safety factor for calculating the internal hydrostatic pressure that the container must withstand. The safety factors range from 2.25 to 3.50, depending on the material and design involved. To satisfy this aspect of NGV2, a container must meet

[6] Both RSPA's standards and NGV2 incorporate the concept of volumetric expansion. In these standards, the volumetric expansion is measured when hydrostatic testing is performed on the container at 1.50 to 1.67 times the service pressure. This test is a non-destructive one, i.e., the container may be put into service after it is tested.

both the material and design requirements as well as the burst test.

NGV2 specifies four types of container designs. A Type 1 container is a metallic noncomposite container. A Type 2 container is a metallic liner over which an overwrap such as carbon fiber or fiberglass is applied in a hoop wrapped pattern over the liner's cylinder sidewall. A Type 3 container is a metallic liner over which an overwrap such as carbon fiber or fiberglass is applied in a full wrapped pattern over the entire liner, including the domes. A Type 4 container is a non-metallic liner over which an overwrap such as carbon fiber or fiberglass is applied in a full wrapped pattern over the entire liner, including the domes.

The agency did not propose adoption of the material and design requirements of NGV2. Instead, the agency proposed a single safety factor of 3.50 for all containers, regardless of their materials or design. It tentatively concluded that the factor would not impede technological development, yet would assure an acceptable level of safety for all containers.

CNG container manufacturers, CNG trade associations (NGVC and AGA), utility companies, the American Automobile Manufacturers Association (AAMA) and other commenters addressed the issue of the safety factor. Most commenters disagreed with the agency's proposal to require that all containers meet the same safety factor.

NGVC, AGA, and the CNG container manufacturers generally believed that the material and design of the fuel container need to be taken into account in establishing an appropriate safety factor, if safe, cost-effective, and light-weight containers are to be produced. Establishing an overly high factor for a given combination of material and design could result in unnecessarily over-designed, heavy containers, according to these commenters. They believed that some materials, such as fiberglass, need a higher safety factor because they degrade faster over time. In contrast, a material such as steel maintains its strength for a longer time, and therefore containers made of it could be made safely with a lower safety factor.

Many of these commenters recommended that NHTSA adopt the safety factors specified in NGV2. They stated that compared to the regulations proposed by NHTSA, the NGVC voluntary industry standard provides a more appropriate level of safety, given the need to specify safety factors based on the design and materials used.

However, several commenters disagreed with certain safety factors specified in NGV2. CGA, PST, SCI, and NGV Systems supported a higher safety factor for containers using unproven materials. In particular, they were concerned with containers reinforced with carbon fiber overwrap, for which NGV2 specifies a 2.25 safety factor for all carbon reinforced containers, Types 2, 3, and 4.

NGV Systems stated that a safety factor of 2.25 constitutes an "unacceptable safety risk," given the industry's limited experience with carbon fiber and lack of a significant data base demonstrating this materials safety and reliability. Accordingly, NGV Systems supported a safety factor of 3.5 for what it termed unproven designs, which may then be lowered as more experience and data accumulate. CGA recommended safety factors of 2.5 for all Type 2 containers and 3.33 for all Type 3 and 4 containers, stating that these are used on all fiber reinforced compressed gas containers now in commercial use. CGA indicated that unlike other fiber overwrap used in the past for transportation pressure vessels, there is no commercial experience with the safety of carbon fiber reinforced containers for motor vehicle applications to justify a 2.25 safety factor for such containers. CGA stated that NGV2 does not adequately address damage tolerance concerns for carbon reinforced fully wrapped containers with low safety factors. PST recommended 3.33 for carbon fiber Types 3 and 4 containers. That commenter recommended such conservative safety factors until substantial data are accumulated on the use of carbon fiber containers in actual service. SCI provided similar comments, and recommended safety factors of 3.33 for the fully wrapped containers, which are Types 3 and 4.

Three commenters stated that a single safety factor was appropriate. CNG Pittsburgh, a consulting firm, stated that a safety factor of 3.50 is conservative but reasonable for CNG fuel containers. AAMA stated that adopting NGV2's approach with various safety factors depending on the material and design involved would limit a manufacturer's choice of container designs and materials. EDO recommended a safety factor of 2.5 for all containers.

NHTSA decided to issue an SNPRM proposing to pattern the burst requirement more closely on NGV2, based on its consultation with other Federal agencies, its review of comments to the January 1993 proposal, and other available information. In explaining its reason for issuing the SNPRM, NHTSA stated that there did not appear to be any procedures that could adequately test a container's susceptibility to degradation over time. Therefore, it believed that specifying a single safety factor would not protect in all instances against these problems since the strength of some containers is dependent on the specific material and method of design. Therefore, NHTSA decided to propose a burst test that would link the use of particular designs and materials to compliance with safety factors tailored to those designs and materials. The agency tentatively concluded that such an approach might be necessary to ensure the safe performance of pressure vessels used for fuel containers. The agency further noted that international standards addressing CNG fuel containers, including regulations of Transport Canada and those being drafted by the International Standards Organization (ISO) link the use of particular designs and materials with strength requirements suitable for those designs and materials.

In the SNPRM, NHTSA requested comment on the appropriateness of requiring CNG containers to meet design and material requirements, such as those specified in NGV2, and to meet safety factors tailored to those requirements. The agency also asked about the effect of adopting NGV2 on future container technology, since the only way a container manufacturer could comply with the Federal standard would be by producing a container that uses those materials and designs specified in NGV2 if the agency incorporated NGV2's material and design provisions in the FMVSS. As an alternative approach, the agency asked whether it should specify a catch-all high end safety factor for any container whose design and materials are not specified in NGV2.

NHTSA received 18 comments to the December 1993 SNPRM about adopting the design and material specific approach of NGV2. Sixteen commenters, including NGVC/AGA, CGA, CNG container manufacturers, public utilities, and two bus manufacturers supported the proposal to incorporate NGV2 into the Federal standard. Eleven commenters supported the safety factors in NGV2. Five others were concerned about the level of some safety factors in NGV2 or the use of relatively new materials, such as carbon fiber. CGA and SCI referenced their earlier comments to the NPRM, again recommending safety factors of 2.5 for all Type 2 containers and 3.33 for all Type 3 and Type 4 containers. AAMA and Ford opposed the design and material specific approach of NGV2. AAMA stated that some of NGV2's requirements limit

opportunities for future development of advance container design or materials that may not fit in the specifications in NGV2. No commenter favored having a catch-all high end safety factor.

Based on the available information, NHTSA has decided to require CNG containers to meet the safety factors applicable to the design and material requirements specified in NGV2, except for carbon fiber. Specifically, the agency is specifying separate safety factors for containers using various materials (e.g., fiberglass, carbon, steel, aluminum) and different designs (non-composite, hoop wrapped or full wrapped composite containers, and welded). The agency believes that this approach will result in the manufacture of safe containers for CNG powered vehicles.

NHTSA has decided to adopt the specific safety factors and related requirements set forth in NGV2, except for those safety factors specified for carbon fiber. While NGV2 currently specifies a safety factor of 2.25 for Type 2, 3, and 4 carbon fiber containers, NHTSA has decided to specify a safety factor of 2.5 for Type 2 carbon fiber containers and 3.33 for the Type 3 and 4 carbon fiber containers. The agency is requiring a higher safety factor for Type 3 and 4 containers since the fibers on those containers carry a greater proportion of the load than on Type 2 containers.

NHTSA made this decision after reviewing all of the comments and information obtained in response to both the NPRM and SNPRM; meetings with container manufacturers, CGA and NGVC/AGA; and discussions with other Federal agencies, including RSPA. Comments and information were presented to support safety factors for carbon fiber containers, ranging from 2.25 to 3.5. Brunswick, in particular, submitted substantial test data and other technical information in support of NGV2's 2.25 safety factor for carbon fiber, including testing it performed on such containers which showed favorable results. RSPA recommended a safety factor of not less than 3.0 for carbon fiber, which is consistent with its FRP–1 and FRP–2 standards.

Notwithstanding comments supporting the 2.25 safety factor, NHTSA has determined that under its statutory mandate, it is necessary to specify higher safety factors for carbon fiber containers. In adopting these more stringent requirements, NHTSA sought the advice of RSPA, which has accumulated significant experience and expertise through its efforts to regulate the safety of pressure vessels used to transport hazardous materials. Specifically, NHTSA has adopted RSPA's recommendation not to specify the 2.25 safety factor for carbon composite containers.

The more stringent safety factors being adopted are consistent with RSPA's longstanding approach to initially adopt conservative requirements and subsequently modify the requirements, if further real-world safety data become available supporting less stringent regulations. NHTSA has determined that applying this approach to the safety factors for carbon fiber containers is necessary, since carbon fiber containers have not been used extensively in motor vehicle applications. The agency believes that the higher safety factors are justified until further data are developed and become available on the use of carbon fiber containers in motor vehicle applications.

NHTSA acknowledges that using such a safety-oriented approach may result in costlier and heavier carbon fiber containers. However, the agency believes that the requirements being adopted will not preclude the introduction and effective use of this new technology. Overall, the agency believes that the safety factors being specified for carbon fiber containers, along with the remaining safety factors it has adopted from NGV2 for other materials, will result in safe CNG containers.

As for AAMA's comment, NHTSA shares that association's concerns about restricting future developments. However, based on comments by the container manufacturers and other Federal agencies, the agency believes that few, if any, designs beyond those accounted for in NGV2 are planned. If a new container technology is developed, the agency will evaluate its safety in the context of a petition for rulemaking to amend the Federal safety standard.

NHTSA has decided not to adopt the catch-all high level safety factor, which could allow containers incorporating materials or designs that have not been incorporated in NGV2 and thus might be detrimental to safety. The agency further believes that it would be inappropriate, at this time, to add a catchall factor. While such a proviso would facilitate innovation and design change, the agency agrees with commenters that specifying such a catchall might be detrimental to safety, since untested designs and materials would be permitted.

2. Hold Time Interval

In the NPRM, NHTSA proposed that during the burst test, elevated pressure would have to be sustained for 60 seconds. The agency noted that while RSPA regulations also specify a 60-second period, NGV2 requires a 10-second hold time interval once the maximum pressure is obtained. The agency believed that because NGV2 includes additional tests to qualify container designs and the agency was not proposing these additional tests, a shorter hold time would not be suitable.

NHTSA received six comments addressing the appropriate hold time interval. All commenters except EDO believed the 60 second hold time requirement was not necessary. EDO stated that the requirement was "tough but reasonable." NGVC, Brunswick, PST, and ARC stated that specifying the hold time at 60 seconds instead of 10 seconds would not compensate for the lack of other NGV2 required tests. NGVC stated that the ten second hold time interval is not intended as a test of container strength, but as the time for the pressure in the container to stabilize. PST stated that along with the 3.5 safety factor, the 60 second hold time would make an already conservative test even more stringent.

After reviewing the comments and other available information, NHTSA has decided to specify a hold time of 10 seconds instead of 60 seconds. The agency notes that the proposal was based on a misperception of the hold time requirement's purpose. As the commenters stated, the hold period is included only to stabilize the pressure. It is not used as a surrogate for initial burst strength. Therefore, the reduction in hold time will not affect the test's stringency. In addition, the agency anticipates issuing a SNPRM that would propose additional performance requirements to evaluate other aspects of a CNG fuel container's integrity.

3. Sequential Testing

In the NPRM, NHTSA proposed that a container that passed the pressure cycling test would then be subjected to the burst test. In proposing that the same fuel container be used in both the pressure cycling and burst tests, the agency believed that it would be appropriate to establish that the fuel container maintained its initial strength after being subject to the durability test.

Seven commenters addressed the issue of using the same container for both the pressure cycling and burst tests. NGVC, AAMA, Comdyne, Pressed Steel Tanks, and Amoco stated that requiring the same fuel container for both tests would be unrealistic and overly stringent, because in real world situations, a container would not be subject to pressure cycling and burst conditions sequentially. They stated

that otherwise unnecessary material would have to be added to strengthen the container so it could meet the burst test requirement after the pressure cycling test. These commenters believed such additional material would significantly increase the container's cost and weight to the extent that the container would no longer be economically viable to produce. They further stated that most containers that are currently produced to meet NGV2 or RSPA requirements would not be able to meet this requirement. In contrast, EDO and Metropolitan Suburban Bus Authority (MSBA) favored the use of sequential testing.

After reviewing the comments and other available information, NHTSA has decided not to require sequential testing. The agency believes that using different containers in the pressure cycling and burst tests will provide an adequate measure of both the container's initial strength and its durability over its life, without imposing new cost burdens on the industry. The agency notes that such testing is consistent with the way in which industry currently tests under both NGV2 and RSPA standards. The agency further notes that in testing for compliance with some FMVSSs, the agency allows a manufacturer to use a separate vehicle or component for different tests within a standard. For example, three vehicles are crashed in Standard No. 301, and different brake hoses are used for various tests in Standard No. 106, *Brake Hoses*.

4. Failure Criteria

In the NPRM, NHTSA proposed that to pass the burst test, a container would have to meet the same two performance criteria as in the pressure cycling test: (1) No leakage, and (2) no permanent circumferential deformation of more than one percent. The purpose of these requirements was to provide objective means to evaluate a container's compliance strength. NGV2 includes the no leakage criterion, but not the one percent circumferential deformation criterion. As explained in the section on the pressure cycling test, the deformation requirement was based on SAE Recommended Practice J10, August 1985, which addresses the performance of metal air brake reservoirs. The agency proposed a circumferential deformation limit to aid in determining a container's impending failure.

After reviewing the comments, NHTSA is adopting the no leakage criterion to evaluate failure of the burst test. The agency has decided not to adopt the one percent deformation criterion because the agency believes that circumferential deformation is not a meaningful measure of a fuel container's impending failure in the burst test. See the section above regarding the pressure cycling test for a more comprehensive discussion about the agency's decision not to adopt the pressure deformation criterion.

E. Bonfire Test

1. Performance Requirements

In the NPRM, NHTSA proposed performance requirements for CNG fuel containers to address the need to withstand high temperatures and pressures without catastrophic failure. Large pressure increases due to exposure to flames could cause the CNG to escape catastrophically and result in an explosive fire. The agency proposed that the ability to withstand high temperatures and pressures be provided by a pressure relief device. More specifically, it proposed that compliance would be determined by first pressurizing the fuel container to 100 percent of service pressure with nitrogen or air and placing it over a bonfire until the container's contents are completely vented through a pressure relief device. A pressure relief device can prevent a container from experiencing high pressure for long periods of time. The agency proposed a second test to be conducted in the same manner, except the container would be pressurized to 25 percent of the service pressure. The second test would evaluate container performance when containers are partially filled. The purpose of the test is to reduce the explosion potential of CNG containers when exposed to high temperatures and pressures.

The proposed requirements were based on NGV2. However, there were two differences between the agency's proposal and NGV2. First, under the NPRM, the container would be pressurized with nitrogen or air; in NGV2, it is pressurized by CNG. Second, under the NPRM, all fuel containers would be required to use a pressure relief device to completely vent the container's contents; in NGV2, the test is run for 20 minutes or until the container is completely vented, whichever comes first. Therefore, under NGV2, a manufacturer could establish compliance either by a container successfully withstanding the test conditions for 20 minutes without bursting or by completely venting its contents by means of a pressure relief device at some point during that 20 minute period. In the NPRM, the agency sought comment about whether to allow an alternative way of demonstrating compliance with the bonfire test that did not depend upon a pressure relief device. Under the alternative, a container would be considered to have passed the test if it did not burst during the test period. Compliance with the alternative would be achieved by designing a container so that it has sufficient strength to enable it to sustain the heat and pressure buildup during the test.

Eleven commenters addressed the issue of whether containers should be required to have a pressure relief device. NGVC, EDO, ARC, Flxible, Manchester, Thomas, and MSBA agreed with the proposal to require containers to be equipped with such a device. They stated that a pressure relief device is an integral part of a CNG container and that its importance warrants a requirement that each container have one. In contrast, Brunswick, Comdyne, Pressure Technology, and AAMA stated that containers should not be required to have a pressure relief device because such a requirement would be design restrictive. Brunswick and Pressure Technology stated that the container should be required to "safely vent" its contents without rupturing, whether the venting is done through a pressure relief device or the container wall. AAMA stated that a container should pass the requirement if it possesses enough strength to retain its contents throughout the test. ARC believed that the container sidewalls should not be permitted to rupture during the bonfire test.

After reviewing the comments, NHTSA has determined that each CNG container must be equipped with a pressure relief device. This is necessary because each CNG fuel container needs to possess a means of releasing its contents in case the internal pressure or temperature reaches a dangerous level. By requiring containers to be equipped with a pressure relief device, the agency will ensure the safety of individuals, such as vehicle occupants and rescue personnel, who would be near a CNG vehicle in a fire. The agency notes that the conditions experienced in the bonfire test may be less severe than certain real-world crash situations. Therefore, the agency is adopting a more conservative approach and requiring a pressure relief device for all containers. In addition, such a requirement is consistent with the practice of most container manufacturers and NGV2 which requires such a device on all containers.

Based on the comments, NHTSA has decided to adopt NGV2's test criteria that allows the test to be completed after 20 minutes or when the container has

completely vented, whichever comes first. Adopting these criteria alters the test in that while still requiring a pressure relief device, a container could comply with the bonfire test if it either completely vents its contents by means of a pressure relief device at some point during that 20 minute period or by successfully retaining the container's entire contents without bursting for the duration of the bonfire test (i.e., 20 minutes). The agency believes that each criterion appropriately measures a container's ability to withstand high temperature and pressure because the bonfire test represents extreme conditions. The agency emphasizes that in either case the CNG container must be equipped with a pressure relief device.

NHTSA disagrees with the approach advocated by AAMA, Brunswick and Pressure Technology to allow containers to "safely vent" their contents from an area other than the pressure relief device such as the sidewall. The agency acknowledges that, as an alternative to a pressure relief device, pressure relief can be accomplished by allowing the overpressurized container to vent its contents at a controlled rate, without fragmentation, through the container's sidewall. However, there would be significant problems with this approach. First, it would not afford as high a degree of safety as requiring a pressure relief device. The agency continues to believe that the safest way to release CNG from an overpressurized container is through a pressure relief device because some sidewall ruptures could result in fragments being propelled from the container. Second, it would raise potential enforceability problems since the concepts of "release its contents at a controlled rate" and "rupture without fragmentation" are difficult to define objectively. Based on the above considerations, NHTSA has decided to require each CNG fuel container to either completely vent its contents through a pressure relief device or not burst when tested in accordance with the test conditions.

2. Types of Pressure Relief Devices

The proposal did not specify the use of a particular type of pressure relief device. The agency is aware of three types of devices currently being used: (1) The rupture disc, which is designed to release CNG in the container when it reaches a specific pressure, (2) the fusible plug, which is designed to release CNG in the container when it reaches a specific temperature, and (3) a device that combines these two devices.

Four commenters recommended the use of specific types of pressure relief devices. EDO recommended that the agency require the fusible plug device and prohibit the rupture disc device. EDO stated that a combination of hot conditions and overfill at the refueling pump could cause a rupture disc to activate, releasing CNG and causing a potentially dangerous situation. It further believed that the safety factor in the burst test would be sufficient to prevent over pressurization and that the pressure relief device should only open in a fire situation. Flxible stated that the agency should require a fusible plug to ensure pressure relief of partially filled containers subject to heat or fire. NYCFD stated that the agency should prohibit the combination fusible plug and rupture disc devices, claiming that over-charged containers exposed to high ambient temperature are likely to fail whether or not they are exposed to fire. Thomas commented that the agency should require the combination fusible plug and rupture disc device because it is required by NFPA 52.[7]

After reviewing the comments, NHTSA has concluded that the standard should not specify the type of pressure relief device with which a container may be equipped. The NPRM and SNPRM did not provide sufficient notice for the agency to adopt such a specification as part of this final rule. Further, the agency believes that the bonfire test, which is performed at both 100 percent of service pressure and 25 percent of service pressure, will adequately evaluate a container's ability to vent its contents in a high temperature/pressure situation. In the first test, the combination of the 100 percent service pressure condition and the high heat from the bonfire will cause the container's pressure to increase rapidly. This test evaluates a container's ability to vent its contents at high temperatures and pressures. In the second test, the 25 percent service pressure condition and the heat will cause the container's temperature to increase before the pressure in the container reaches a critical point. This test evaluates a container's ability to vent its contents at high temperatures, where the container is at a less than full condition.

[7] NFPA 52, *Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems*, is a voluntary standard adopted by the National Fire Protection Association that specifies guidelines for the "design and installation of CNG engine fuel systems on vehicles of all types including aftermarket and OEMs and to their associated fueling (dispensing) systems." (NFPA 52, § 1–1)

3. Shielding

NHTSA notes that there are two types of shielding that can affect the performance of pressure relief devices in bonfire tests: (1) "Vehicle-based protective shielding" that is placed around the container in the vehicle to protect the container from surrounding heat, and (2) "test shielding" that is placed over the pressure relief device to prevent flames from contacting the device. Test shielding is, as the name suggests, installed only for the purpose of conducting bonfire tests. Unlike vehicle-based protective shielding, it is not used to affect real world performance.

In the NPRM, NHTSA recognized that some CNG vehicles may have vehicle-based shielding installed to protect the containers from exposure to heat. Nevertheless, the agency proposed that no vehicle-based shielding be used during the bonfire test because Standard No. 304 is an equipment standard, and applies to CNG containers, not to vehicles. Further, since the presence or amount of shielding could vary from vehicle to vehicle, the agency tentatively concluded that the containers should be tested in the worst case situation, i.e., without any vehicle-based shielding. Nevertheless, the agency stated that it did not want to discourage vehicle manufacturers from including shielding in CNG vehicles as an added safety feature.

NHTSA received six comments addressing the use of vehicle-based shielding during the bonfire test. PST, EDO, ARC, Ontario, and NGVC agreed with the agency that vehicle-based shielding of the container should not be used during the bonfire test. They believed that such shielding could detract from or mask the results of the test. In contrast, AAMA stated that "[i]f a manufacturer chooses to add the additional expense to protect the fuel tank from exposure to potential flame, the protection ought to be allowed in any test as representative of the tank's use in the vehicle."

After reviewing the comments, NHTSA has decided not to permit vehicle-based shielding of the container during the bonfire test. As explained in the NPRM, the bonfire test is intended to evaluate the container and not the vehicle. Since this is an equipment standard, the tests are designed to ensure that the containers are safe for installation in any vehicle, regardless of the amount of protective vehicle shielding, if any, with which it is equipped. The agency disagrees with AAMA's contention. Using vehicle shielding in compliance testing would

not ensure that a container could perform safely under worst case conditions (i.e., no vehicle-based shielding of any type or extent) that the container could encounter during its service life (e.g., if the container is subsequently placed in a different vehicle).

Test shielding consists of a metal plate over the pressure relief device and is permitted, but not required, under NGV2 for purposes of the horizontal bonfire test. In the horizontal test, the CNG container is positioned over the bonfire with its longitudinal axis in a horizontal position. In the NGV2 vertical bonfire test (container longitudinal axis in a vertical position), pressure relief device shielding is also permitted, but not required, except where the CNG container is fitted with a pressure relief device on both ends. In that case, the bottom pressure relief device must be shielded. The goal is to not allow flames to impinge directly on any relief device. This may be done through test shielding, or by orienting the container so as to avoid flame impingement on any pressure relief device. Without this metal plate, the flames could contact the pressure relief device, possibly causing it to vent the container prematurely. If this occurred, the bonfire test results would neither evaluate the CNG container as a whole nor accurately reflect the container's pressure relief characteristics.

CGA and PST opposed allowing shielding of the pressure relief device during the bonfire test. They commented that shielding the pressure relief device during the bonfire test would not be representative of a real-world crash fire situation. CGA stated that allowing, but not requiring shielding to be placed around pressure relief devices could produce non-repeatable results. PST stated that excessive shielding around the pressure relief device could cause an otherwise acceptable design to fail the test, but did not elaborate as to how this could occur.

NHTSA has decided to require test shielding of the pressure relief device during the horizontal bonfire test. The agency notes that the purpose of this test is to replicate the effect of fires on the pressure relief device and the fuel container as a system. Requiring shielding will assure that the bonfire test is evaluating the fuel container as a whole, rather than merely the pressure relief device, since a flame that impinges on the pressure relief device, could activate prematurely. Requiring shielding, rather than simply allowing it, will assure repeatable and consistent test results. The rule also requires shielding of the pressure relief device during the vertical bonfire test, except where the container is fitted with a pressure relief device on only one end. In that case, the container is positioned with the pressure relief device on top, so as to avoid direct contact with the flame.

4. Test Gas and Pressure

In the NPRM, NHTSA proposed that the CNG container be pressurized with either nitrogen or air to 100 percent of service pressure for the bonfire test. The agency acknowledged that NGV2 specifies the use of CNG, but tentatively concluded that using nitrogen or air as the test gas would be safer than using CNG.

AAMA and Tecogen recommended that CNG be used as the test gas. Tecogen further commented that the container manufacturers have historically conducted such tests using CNG and are therefore well aware of the necessary safety precautions. It further stated that using CNG as the test gas would reveal the pressure relief valve's effectiveness with respect to the discharge rate. AAMA commented that CNG should be used as the test gas because the thermal properties of CNG differ from those of nitrogen and air and NGV2 specifies the use of CNG as the test gas. AAMA also recommended that the CNG containers be pressurized at the start of the test to 95 to 100 percent of service pressure, but offered no rationale.

After reviewing the comments, NHTSA has determined that using CNG as the test gas would better reflect the real-world conditions in a fire, since the test gas would be the same as the gas used in CNG containers. The agency notes that the bonfire test addresses the responsiveness of the pressure relief device and that air and nitrogen have different thermal properties than CNG. Therefore, the pressure relief device might perform differently if air or nitrogen were used instead of CNG. In the NPRM, the agency explained that using CNG as a test gas might not be safe. These initial concerns have been allayed by the comments indicating that manufacturers are aware of and accustomed to taking the necessary safety precautions when using CNG as a test gas to evaluate a container. NHTSA notes that it decided not to specify CNG as the test gas in the CNG vehicle standard. Nevertheless, the agency believes that differences in reaction to heat are important for the bonfire test, which involves high temperatures, but not for crash tests, which do not involve such temperatures.

NHTSA continues to believe that it is necessary to pressurize the CNG container to 100 percent of service pressure at the outset of the test. The agency has determined that the containers need to be tested at full service pressure to represent the worst case scenario.

5. Wind Velocity and Direction

In the NPRM and SNPRM, NHTSA did not address the allowable wind velocity and direction. The agency received comments from NGVC, CGA, and PST stating that a limit should be placed on wind velocity to increase the bonfire test's repeatability.

After reviewing the comments, NHTSA has decided to specify that the average wind velocity at the container during the test may not exceed 2.24 meters per second (5 mph). The agency believes that permitting higher crosswinds would vary or reduce the flame's heat. Therefore, placing limits on the crosswind assures the test's repeatability and the level of stringency that the agency anticipated in proposing this test.

6. Bonfire Fuel

In the NPRM, NHTSA proposed that the fire for the bonfire tests be generated using No. 2 diesel fuel. This fuel type was proposed so that the standard would be consistent with the bonfire test in NGV2, which also specifies this type of fuel.

NGVC, CGA, AAMA, and Norris commented that the agency should specify a different fuel to generate the bonfire that is more environmentally sound. CGA stated that the large amounts of smoke that would be created by burning the diesel fuel are contrary to the environmental objectives of developing CNG vehicles. NGVC and Norris suggested using a CNG or propane grill for the test.

After reviewing the comments and other available information, NHTSA has decided to specify the use of No. 2 diesel fuel in the final rule. The agency is aware of the environmental problems associated with this type of fuel and will further study whether other fuels should be used to generate the bonfire test. However, until the agency can determine that a different fuel is an appropriate replacement for diesel fuel, the Standard will specify No. 2 diesel fuel for use in the bonfire test.

7. Bonfire Test Fuel Pan Depth

In the NPRM, NHTSA proposed that the bonfire test pan containing No. 2 diesel fuel be at least 100 centimeters (cm) deep. The agency specified a depth

to ensure that there would be an adequate amount of fuel to run the test.

AAMA, Comdyne, CGA, Alusuisse, and PST commented that the fuel pan depth was excessive. Alusuisse stated that a pan of the proposed size would contain more than 1,000 liters of fuel. PST stated that a 100 millimeter (mm) depth would be more reasonable. CGA, AAMA, and Comdyne stated that the depth of the fuel pan should not be specified so long as a sufficient quantity of fuel is provided for the test.

The agency intended to propose a depth of 100 mm. However, due to a typographical error, it proposed a depth of 100 cm. NHTSA agrees that a fuel pan with a depth of at least 100 cm would be too deep. NHTSA also agrees that the fuel pan's depth does not need to be specified, provided that there is a sufficient amount of fuel to maintain the fire for the duration of the test. Accordingly, the agency has removed the requirement for fuel pan depth and has replaced it with the provision that there be "sufficient fuel to burn for at least 20 minutes." The agency believes that this provision is consistent with the test's purpose of simulating a severe fire by raising the container's temperature and pressure by completely surrounding it with flames produced by a specific fuel type.

F. Labeling Requirements

In the NPRM, NHTSA proposed to require that container manufacturers certify that each of their containers complies with the proposed equipment requirements and permanently label the container with the following information: the symbol "DOT" to constitute a certification by the manufacturer that the container conforms to all requirements of the standard; the date of manufacture of the container; the name and address of the container manufacturer; and the maximum service pressure. The agency stated that labeling the container would provide vehicle manufacturers and consumers with assurance that they are purchasing containers that comply with the Federal safety standards. In addition, the agency believed that the proposed requirement would facilitate the agency's enforcement efforts by providing a ready means of identifying the container and its manufacturer.

EDO, NGVC, Thomas, NYCFD, and Volvo GM addressed the proposed labeling requirements. EDO and NYCFD stated that the label should include the maximum fill pressure at a location close to the fill receptacle. NGVC recommended that a blank area for the container installation date be included in the label to be filled in by the installer. Volvo GM stated that only containers that are manufactured after the standard's effective date, and therefore actually subject to the standard, should be entitled to display the DOT symbol as certification of compliance with the standard. Thomas stated, without elaboration, that the labeling requirements of NGV2 should be adopted. NHTSA's proposal did not include certain additional information included in NGV2, including the type of container, inspector symbols, trademarks, manufacturer's part number, and serial numbers.

After reviewing the comments, NHTSA has decided to adopt the proposed labeling requirements with a slight modification from the proposed format. In item (a), the agency has modified the proposal which states "The tank manufacturer's name and address" to state the following: include the statement that "If there is a question about the proper use, installation, or maintenance of this container, contact [*manufacturer's name, address, and telephone number*]."

The agency has decided not to require the other additional items of information in NGV2 since the agency did not propose the inclusion of such information in the NPRM. Notwithstanding the agency's decision not to require this additional information, a manufacturer may list such information on the label, provided the additional information does not obscure or confuse the required information. In particular, NHTSA encourages manufacturers to include the container type, e.g., Type 1, 2, 3 or 4, since the agency has decided to adopt NGV2's design and material specifications in this final rule. Specifying the type of container should facilitate oversight of compliance tests since each type of container is required to undergo hydrostatic burst tests, but with different safety factors.

In the upcoming SNPRM, NHTSA anticipates proposing additional requirements about the CNG fuel container's label, including the container type. In addition, the agency anticipates proposing that the label include an additional statement addressing the container's inspection and maintenance. Specifically, the label would state that "This container should be visually inspected after an accident or fire or at least every 12 months for damage and deterioration in accordance with the applicable Compressed Gas Association guidelines." The agency believes that such a statement would alert owners to the desirability for reinspection over time or in the event of an accident. NHTSA will also propose requirements related to the label's location, in response to EDO's and NYCFD's comment that the maximum service pressure should be labeled in an area close to the fill receptacle.

G. Leadtime

In the NPRM, NHTSA proposed to make the equipment requirements effective on September 1, 1994. The agency believed that this would provide a reasonable time period for manufacturers to make minor modifications in container design. This proposal was based on the agency's belief that the proposed requirements were similar to RSPA standards currently in effect. The agency requested comment on the feasibility of this effective date.

NHTSA received eleven comments about the proposed effective date applicable to the container requirements. The commenters were TMC, the U.S. Department of Energy, TBB, Oklahoma Gas, NGVC, EDO, Volvo/GM, AAMA, ARC, Navistar, and NGV Systems. EDO and Navistar requested that the final rule be issued as early as possible. DOE and Oklahoma Gas recommended an effective date of September 1, 1995. NGVC recommended an effective date of September 1, 1996, unless NGV2 were adopted which would permit an immediate supply of containers. NGV Systems stated that an earlier effective date would be difficult to meet since the rule, as proposed, would require new tooling, process development, and perhaps equipment modification. ARC stated that the rule, as proposed, would require major modifications, since its containers have been designed to comply with NGV2. AAMA and Volvo/GM stated that the effective dates for the vehicle requirements and the equipment requirements should not be concurrent.

NHTSA notes that these comments were based on the requirements, as proposed in the NPRM. Since the final rule has been made essentially consistent with NGV2 (with the exception of carbon fiber containers), the agency anticipates that container manufacturers can for the most part already certify that containers, other than carbon fiber ones, comply with the new standard. This belief is based on comments on the NPRM and meetings with NGVC, the CGA, and CNG container manufacturers. With regard to manufacturers of carbon fiber containers, EDO indicated that it already complies with the standard and Brunswick indicated that it would need less than one month lead time for a safety factor greater than 2.25. Brunswick further stated that it would

need an unspecified time period to modify the mounting brackets and other hardware. The CNG industry groups have informed the agency that they want a CNG fuel container standard to be effective as quickly as possible. In addition, they favor having an opportunity to "voluntarily certify compliance" to the standard once the final rule is published. The CNG industry groups believe that it is necessary for Federal standards to be in place as soon as possible, given the expected increased demand for CNG containers in light of Federal and State fleet programs for clean fuel vehicles. They also favor quick adoption of a Federal standard to preempt state regulations that otherwise may be promulgated and to ensure that substandard CNG containers are not marketed.

After reviewing the comments, NHTSA has decided to establish an effective date six months after the final rule is issued. As explained above, most CNG containers can be certified to comply with the new Federal motor vehicle safety standard since they already comply with NGV2 or can be modified so that they comply within six months. Nevertheless, the agency believes that it is necessary to provide a leadtime of six months to allow manufacturers time to make whatever design changes are necessary and to conduct testing so that they can certify that their containers comply with the new standard. In the meantime, prior to the standard's effective date, the industry is free to advertise containers as meeting the CNG equipment standard that will take effect in six months.[8] Manufacturers have taken the approach of seeking early compliance with respect to other agency requirements such as those relating to dynamic side impact protection and air bags. Therefore, the agency encourages manufacturers to seek, to the extent feasible, to manufacture their CNG containers to meet these new requirements before the date the standard takes effect.

With regard to the concern expressed by AAMA and Volvo GM that the effective date of the container regulation should precede that of the vehicle regulation, AAMA based its comments on the belief that it will need to know the performance of the containers it will use in the fuel systems of its vehicles. NHTSA notes that CNG containers now typically meet NGV2 and thus should comply with NHTSA's standards. Therefore, AAMA members already have access to and detailed knowledge about containers that should meet the new requirements.

H. Benefits

In the NPRM, NHTSA addressed the proposal's benefits with respect to CNG vehicles. The notice did not directly address the benefits of regulating the CNG fuel containers.

NHTSA received no comments directly addressing the benefits of regulating CNG containers. Brunswick criticized the proposal, believing that it would place carbon fiber containers at a competitive disadvantage. Brunswick stated that the proposed single burst factor would provide less benefits than if the agency adopted NGV2.[9]

NHTSA anticipates that the number of CNG fuel vehicles will increase greatly in the near future, in light of directives by the Clinton Administration [10] and legislation by Congress to develop vehicles powered by cleaner burning fuels. This final rule will increase the safety of this growing population of vehicles.

I. Costs

In the NPRM, NHTSA stated that each container would cost $600. The agency further stated that the container testing costs would range from approximately $4,050 to $8,600 for each model of container.

NGVC, NGV Systems, PST, Brunswick, ARC, Thomas Built, and Flxible addressed the costs of the proposal with respect to CNG containers. NGVC and the CNG container manufacturers stated that the proposal, especially given the single safety factor in the burst test requirements, significantly understated the costs of the rulemaking. Brunswick stated that container manufacturers would incur significant costs since they would have to redesign and requalify their currently designed tanks. As a result, it believed that the CNG containers would be more expensive and heavier. It estimated that the proposal would increase costs between 10 percent and 55 percent, depending on the material and method of construction. Brunswick further stated that this proposal would add many millions of dollars on an industry-wide basis.

NGVC commented that the qualification tests could cost $20,000 for each model of container since many tests will be required on prototype containers. It stated that some manufacturers estimate that the design, manufacture, and qualification costs could approach $150,000 per container model, a figure that greatly exceeded NHTSA's estimate of $74,000.

NHTSA believes that the basis for the comments about the costs of this rulemaking have been largely eliminated except in connection with carbon fiber tanks. The comments were based on the proposal for a single safety factor of 3.5 for all types of tanks. As noted above, the agency has decided to specify multiple safety factors that are consistent with NGV2 except in the case of the factors for carbon fiber containers. Since all the container manufacturers commenting on the proposal either already certify to or can comply with NGV2 without any design changes, the cost to manufacturers will be minimal for noncarbon fiber tanks.

V. Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "nonsignificant" under the Department of Transportation's regulatory policies and procedures. NHTSA has estimated the costs of the amendments in a Final Regulatory Evaluation (FRE) which is included in the docket for this rulemaking. As discussed in that document, NHTSA estimates that the cost for the pressure cycling, burst, and bonfire testing will range from $9,000 to $21,725 per container size and type. In addition, the cost of the containers used in the test is estimated to range from $1,800 to $6,600. Since the safety factors in the burst test applicable to carbon fiber containers are more stringent than those in NGV2, the cost of those containers will increase. Based on comments by Brunswick and other information, the switch from carbon fiber containers meeting a 2.25 safety factor to carbon fiber containers meeting

[8] However, the agency emphasizes that a manufacturer may not certify a container as meeting the equipment standard until the standard goes into effect. Under the Vehicle Safety Act, a certification is a statement that a vehicle or item of equipment meets all applicable Federal Motor Vehicle Safety Standards that are then in effect. Therefore, until a standard is effective, manufacturers may not certify compliance with it.

[9] Because NHTSA is adopting Brunswick's request for multiple safety factors, that commenter's concern about a single safety factor is moot.

[10] Executive Order 12844 increased by 50 percent the number of alternatively fueled vehicles to be acquired by the Federal Government from 1993 through 1995. (April 21, 1993) In addition, in 1993, the President established the Federal Fleet Conversion Task Force to accelerate the commercialization and market acceptance of alternative fueled vehicles throughout the country.

the factors adopted in this final rule will increase the container cost and the lifetime fuel costs about 8.75 percent for vehicles equipped with Type 2 containers. Those costs would be range from $115 for passenger cars to $602 for heavy trucks. The switch would increase costs about 37.1 percent for vehicles equipped with Type 3 and Type 4 containers, resulting in a cost increase ranging from $496 for cars to $2,560 for heavy trucks.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Information available to the agency indicates that businesses manufacturing CNG fuel containers are not small businesses.

C. Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No state has adopted requirements regulating CNG containers.

D. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this rule. The agency has determined that this rule will have no adverse impact on the quality of the human environment. On the contrary, because NHTSA anticipates that ensuring the safety of CNG vehicles will encourage their use, NHTSA believes that the rule will have positive environmental impacts. CNG vehicles are expected to have near-zero evaporative emissions and the potential to produce very low exhaust emissions as well.

E. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.5 is amended by redesignating (b)(7) as (b)(10) and adding new paragraphs (b)(7) through (b)(9), to read as follows:

§ 571.5 Matter incorporated by reference.

* * * * *

(b) * * *

(7) *Standards of Suppliers of Advanced Composite Materials Association (SACMA).* They are published by Suppliers of Advanced Composite Materials Association. Information and copies may be obtained by writing to: Suppliers of Advanced Composite Materials Association, 1600 Wilson Blvd., Suite 1008, Arlington, VA 22209.

(8) *Standards of the American Society of Mechanical Engineers (ASME).* They are published by The American Society of Mechanical Engineers. Information and copies may be obtained by writing to: The American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017.

(9) *Computer Analysis by the National Aeronautics and Space Administration (NASA).* This was conducted by the National Aeronautics and Space Administration. Information and copies may be obtained by writing to: National Aeronautics and Space Administration, 600 Independence Avenue SW, Washington, DC 20546.

* * * * *

3. A new § 571.304, *Standard No. 304; Compressed Natural Gas Fuel Container Integrity,* is added to Part 571, to read as follows:

§ 571.304 Standard No. 304; Compressed Natural Gas Fuel Container Integrity.

S1. *Scope.* This standard specifies requirements for the integrity of compressed natural gas (CNG), motor vehicle fuel containers.

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries occurring from fires that result from fuel leakage during and after motor vehicle crashes.

S3. *Application.* This standard applies to containers designed to store CNG as motor fuel on-board any motor vehicle.

S4. *Definitions.*

Brazing means a group of welding processes wherein coalescence is produced by heating to a suitable temperature above 800 °F and by using a nonferrous filler metal, having a melting point below that to the base metals. The filler metal is distributed between the closely fitted surfaces of the joint by capillary attraction.

Burst pressure means the highest internal pressure reached in a CNG fuel container during a burst test at a temperature of 21 °C (70 °F).

CNG fuel container means a container designed to store CNG as motor fuel on-board a motor vehicle.

Fill pressure means the internal pressure of a CNG fuel container attained at the time of filling. Fill pressure varies according to the gas temperature in the container which is dependent on the charging parameters and the ambient conditions.

Full wrapped means applying the reinforcement of a filament or resin system over the entire liner, including the domes.

Hoop wrapped means winding of filament in a substantially circumferential pattern over the cylindrical portion of the liner so that the filament does not transmit any significant stresses in a direction parallel to the cylinder longitudinal axis.

Hydrostatic pressure means the internal pressure to which a CNG fuel container is taken during testing set forth in S5.4.1.

Liner means the inner gas tight container or gas cylinder to which the overwrap is applied.

Service pressure means the internal settled pressure of a CNG fuel container at a uniform gas temperature of 21 °C (70 °F) and full gas content. It is the pressure for which the container has been constructed under normal conditions.

Stress ratio means the stress in the fiber at minimum burst pressure divided by the stress in the fiber at service pressure.

S5 *Container and material requirements.*

S5.1 *Container designations.* Container designations are as follows:

S5.1.1 *Type 1—Non-composite metallic container* means a metal container.

S5.1.2 *Type 2—Composite metallic hoop wrapped container* means a metal liner reinforced with resin impregnated continuous filament that is "hoop wrapped."

S5.1.3 *Type 3—Composite metallic full wrapped container* means a metal liner reinforced with resin impregnated continuous filament that is "full wrapped."

S5.1.4 *Type 4—Composite non-metallic full wrapped container* means resin impregnated continuous filament with a non-metallic liner "full wrapped."

S5.2 *Material designations.*

S5.2.1 *Steel containers and liners.*

(a) Steel containers and liners shall be of uniform quality. Only the basic oxygen or electric furnace processes are authorized. The steel shall be aluminum killed and produced to predominantly fine grain practice. The steel heat analysis shall be in conformance with one of the following grades:

TABLE ONE—STEEL HEAT ANALYSIS

Grade element	Chrome-Molybdenum percent	Carbon-Boron percent	Carbon-Manganese percent
Carbon	0.25 to 0.38	0.27 to 0.37	0.40 max.
Manganese	0.40 to 1.05	0.80 to 1.40	1.65 max.
Phosphorus	0.015 max	0.015 max	0.025 max.
Sulfur	0.010 max	0.010 max	0.010 max.
Silicon	0.15 to 0.35	0.30 max	0.10/0.30
Chromium	0.80 to 1.15	N/A	N/A
Molybdenum	0.15 to 0.25	N/A	N/A
Boron	N/A	0.0005 to 0.003	N/A
Aluminum	0.02 to 0.07	0.02 to 0.07	0.02/0.07

[1] "N/A" means not applicable.

(b) Incidental elements shall be within the limits specified in the *Standard Specification for Steel, Sheet and Strip, Alloy, Hot-Rolled and Cold-Rolled, General Requirements for* ASTM A 505 (1987).

S5.2.1.1 When carbon-boron steel is used, the test specimen is subject to a hardenability test in accordance with the *Standard Method for End-Quench Test For Hardenability of Steel,* ASTM A 255 (1989). The hardness evaluation is made 7.9 mm (5/16 inch) from the quenched end of the Jominy quench bar.

S5.2.1.2 The test specimen's hardness shall be at least Rc (Rockwell Hardness) 33 and no more than Rc 53.

S5.2.2 *Aluminum containers and aluminum liners.* (Type 1, Type 2 and Type 3) shall be 6010 alloy, 6061 alloy, and T6 temper. The aluminum heat analysis shall be in conformance with one of the following grades:

TABLE TWO—ALUMINUM HEAT ANALYSIS

Grade element	6010 alloy percent	6061 alloy percent
Magnesium	0.60 to 1.00	0.60 to 1.20
Silicon	0.80 to 1.20	0.40 to 0.80
Copper	0.15 to 0.60	0.15 to 0.40
Chromium	0.05 to 0.10	0.04 to 0.35
Iron	0.50 max	0.70 max.
Titanium	0.10 max	0.15 max.
Manganese	0.20 to 0.80	0.15 max.
Zinc	0.25 max	0.25 max.
Bismuth	0.003 max	0.003 max.
Lead	0.003 max	0.003 max.
Others, Each [1].	0.05 max	0.05 max.
Others, Total [1].	0.15 max	0.15 max.

TABLE TWO—ALUMINUM HEAT ANALYSIS—Continued

Grade element	6010 alloy percent	6061 alloy percent
Aluminum	Remainder	Remainder.

[1] Analysis is made only for the elements for which specific limits are shown, except for unalloyed aluminum. If, however, the presence of other elements is indicated to be in excess of specified limits, further analysis is made to determine that these other elements are not in excess of the amount specified. (Aluminum Association Standards and Data—Sixth Edition 1979.)

S5.2.3 Structural reinforcing filament material shall be commercial grade E-glass, commercial grade S-glass, aramid fiber or carbon fiber. Filament strength shall be tested in accordance with the *Standard Test Method for Tensile Properties of Glass Fiber Strands, Yarns, and Rovings Used in Reinforced Plastics,* ASTM D 2343 (1967, Reapproved 1985), or SACMA *Recommended Test Method for Tow Tensile Testing of Carbon Fibers,* SRM 16–90, 1990. Fiber coupling agents (sizing) shall be compatible with the resin system. If carbon fiber reinforcement is used the design shall incorporate means to prevent galvanic corrosion of metallic components of the fuel container.

S5.2.4 The resin system shall be epoxy, modified epoxy, polyester, vinyl ester or thermoplastic.

S5.2.4.1 The resin system is tested on a sample coupon representative of the composite overwrap in accordance with the *Standard Test Method for Apparent Interlaminar Shear Strength of Parallel Fiber Composites by Short-Beam Method,* ASTM D 2344, (1984, Reapproved 1989) following a 24-hour water boil.

S5.2.4.2 The test specimen shall have a shear strength of at least 13.8 MPa (2,000 psi).

S5.2.5 For nonmetallic liners, the permeation of CNG through the finished container's wall at service pressure is less than 0.25 normal cubic centimeters per hour per liter water capacity of the container.

S5.3 *Manufacturing processes for composite containers.*

S5.3.1 *Composite containers with metallic liners.* The CNG fuel container shall be manufactured from a metal liner overwrapped with resin impregnated continuous filament windings, applied under controlled tension to develop the design composite thickness. After winding is complete, composites using thermoset resins shall be cured by a controlled temperature process.

S5.3.1.1 *Type 2 containers.* Type 2 containers shall have a hoop wrapped winding pattern.

S5.3.1.2 *Type 3 containers.* Type 3 containers shall have a full wrapped "helical or in plane" and a "hoop" wrap winding pattern.

S5.3.2 Type 4 containers. Composite containers with nonmetallic liners shall be fabricated from a nonmetallic liner overwrapped with resin impregnated continuous filament windings. The winding pattern shall be "helical or in plane" and "hoop" wrap applied pattern under controlled tension to develop the design composite thickness.

After winding is complete, the composite shall be cured by a controlled temperature process.

S5.3.3 *Brazing.* Brazing is prohibited.

S5.3.4 Welding. Welding shall be done in accordance with the *American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code*, Section IX, Article II, QW–304 and QW–305 (1992). Weld efficiencies shall be in accordance with *ASME Boiler and Pressure Vessel Code*, Section VIII, UW–12 (1989). Any weld shall be subject to full radiographic requirements in accordance with *ASME Boiler and Pressure Vessel Code*, Section VIII, UW–51 thru UW–53 (1989). For Type 2 and Type 3 liners, longitudinal welds and nonconsumable backing strips or rings shall be prohibited.

S5.4 *Wall thickness.*

S5.4.1 *Type 1 containers.*

(a) The wall thickness of a Type 1 container shall be at least an amount such that the wall stress at the minimum prescribed hydrostatic test pressure does not exceed 67 percent of the minimum tensile strength of the metal as determined by the mechanical properties specified in S5.7 and S5.7.1.

(b) For minimum wall thickness calculations, the following formula is used:

$$S = \frac{P\left(1.3D^2 + 0.4d^2\right)}{\left(D^2 - d^2\right)}$$

Where:

S = Wall stress in MPa (psi).
P = Minimum hydrostatic test pressure in Bar (psig).
D = Outside diameter in mm (inches).
d = Inside diameter in mm (inches).

S5.4.2 *Type 2 containers.*

S5.4.2.1 The wall thickness of a liner to a Type 2 container shall be at least an amount such that the longitudinal tensile stress at the minimum design burst pressure does not exceed the ultimate tensile strength of the liner material as determined in S5.7 and S5.7.1.

S5.4.2.2 The wall thickness of a liner to a Type 2 container shall be at least an amount such that the compressive stress in the sidewall of the finished container at zero pressure shall not exceed 95 percent of the yield strength of the liner as determined in S5.7 and S5.7.1 or 95 percent of the minimum design yield strength shown in S5.7.3. The maximum tensile stress in the liner at service pressure shall not exceed 66 percent of the yield strength.

S5.4.2.3 Stresses at the end designs at internal pressures between no more than 10 percent of service pressure and service pressure shall be less than the maximum stress limits in the sidewall as prescribed above.

S5.4.3 *Type 3 containers.* The wall thickness of a liner to a Type 3 container shall be such that the compressive stress in the sidewall of the finished container at zero pressure shall not exceed 95 percent of the minimum yield strength of the liner as determined in S5.7 and S5.7.1 or 95 percent of the minimum design yield strength shown in S5.7.3

S5.4.4 *Type 4 containers.* The wall thickness of a liner to a Type 4 container shall be such that the permeation rate requirements of this specification are met.

S5.5 *Composite reinforcement for Type 2, Type 3, and Type 4 Containers.*

S5.5.1 Compute stresses in the liner and composite reinforcement using National Aeronautics and Space Administration (NASA) NAS 3–6292, *Computer Program for the Analysis of Filament Reinforced Metal-Shell Pressure Vessels*, (May 1966).

S5.5.2 The composite overwrap shall meet or exceed the following composite reinforcement stress ratio values shown in Table 3.

S5.6 *Thermal treatment.*

S5.6.1 *Steel containers or liners.*

S5.6.1.1 After all metal forming and welding operations, completed containers or liners shall be uniformly and properly heat treated under the same conditions of time, temperature and atmosphere prior to all tests.

S5.6.1.2 All containers or liners of steel grades "Chrome-Molybdenum" or "Carbon Boron" shall be quenched in a medium having a cooling rate not in excess of 80 percent that of water. "Carbon-Manganese" steel grades shall be normalized and do not require tempering after normalizing.

S5.6.1.3 All steel temperature on quenching shall not exceed 926°C (1700°F).

S5.6.1.4 All containers or liners or steel grades "Chrome-Molybdenum" or "Carbon Boron" shall be tempered after quenching at a temperature below the transformation ranges, but not less than 482°C (900°F) for "Carbon-Boron" steel or 565°C (1050°F) for "Chrome-Molybdenum" steel. "Carbon Manganese" steel grades do not require tempering after normalizing.

S5.6.2 *Aluminum containers or liners (seamless and welded).* After all forming and welding operations, aluminum containers or liners shall be solution heat treated and aged to the T6 temper. The liner and composite overwrap shall meet the cycle life and strength requirements set forth in S7.1 and S7.2 of this standard.

S5.7 *Yield strength, tensile strength, material elongation (metal containers and metal liners only).* To determine yield strength, tensile strength, and elongation of the material, cut two specimens from one container or liner. The specimen either has (a) a gauge length of 50 mm (2 inches) and a width not over 38 mm (1.5 inches), or (b) a gauge length of four times the specimen diameter, provided that a gauge length which is at least 24 times the thickness with a width not over 6 times the thickness is permitted when the liner wall is not over 5 mm (3/16 inch) thick. The specimen shall not be flattened, except that grip ends may be flattened to within 25 mm (1 inch) of each end of the reduced section. Heating of specimens is prohibited.

S5.7.1 *Yield strength.* The yield strength in tension shall be the stress corresponding to a permanent strain of 0.2 percent based on the gauge length.

S5.7.1.1 The yield strength shall be determined by either the "offset" method or the "extension under load" method as prescribed by *Standard Test Methods for Tension Testing of Metallic Materials*, ASTM E8 1993.

S5.7.1.2 In using the "extension under load" method, the total strain or "extension under load" corresponding to the stress at which the 0.2 percent permanent strain occurs may be determined by calculating the elastic extension of the gauge length under appropriate load and adding thereto 0.2 percent of the gauge length. Elastic extension calculations shall be based on an elastic modulus of 69 GPa (10,000,000 psi) for aluminum, or 207 GPa (30,000,000 psi) for steel. If the elastic extension calculation does not provide a conclusive result, the entire stress strain diagram shall be plotted and the yield strength determined from the 0.2 percent offset.

S5.7.1.3 For the purpose of strain measurement, the initial strain is set while the test specimen is under a stress of 41 MPa (6,000 psi) for aluminum, and 83 MPa (12,000 psi) for steel. The strain indicator reading is set at the calculated corresponding strain.

S5.7.1.4 Cross-head speed of the testing machine is 3.2 mm (1/8 inch) per minute or less during yield strength determination.

S5.7.2 *Elongation.* Elongation of material, when tested in accordance with S5.7, shall be at least 14 percent for aluminum or at least 20 percent for steel; except that an elongation of 10 percent is acceptable for both aluminum and steel when the authorized specimen

size is 24t gauge length x 6t wide, where "t" equals specimen thickness.

S5.7.3 *Tensile strength.* Tensile strength shall not exceed 725 MPa (105,000 psi) for "Carbon Manganese" and 966 MPa (140,000 psi) for "Chrome-Molybdenum" and "Carbon-Boron."

S6 *General requirements.*

S6.1 Each passenger car, multipurpose passenger vehicle, truck, and bus that uses CNG as a motor fuel shall be equipped with a CNG fuel container that meets the requirements of S7 through S7.4.

S6.2 Each CNG fuel container manufactured on or after March 27, 1994, shall meet the requirements of S7 through S7.4.

S7 *Test requirements.* Each CNG fuel container shall meet the applicable requirements of S7 through S7.4.

S7.1 *Pressure cycling test at ambient temperature.* Each CNG fuel container shall not leak when tested in accordance with S8.1.

S7.2 *Hydrostatic burst test.*

S7.2.1 Each Type 1 CNG fuel container shall not leak when subjected to burst pressure and tested in accordance with S8.2. Burst pressure shall be not less than 2.25 times the service pressure for non-welded containers when analyzed in accordance with the stress ratio requirements of S5.4.1, and shall not be less than 3.5 times the service pressure for welded containers.

S7.2.2 Each Type 2, Type 3, or Type 4 CNG fuel container shall not leak when subjected to burst pressure and tested in accordance with S8.2. Burst pressure shall be no less than the value necessary to meet the stress ratio requirements of Table 3, when analyzed in accordance with the requirements of S5.5.1. Burst pressure is calculated by multiplying the service pressure by the applicable stress ratio set forth in Table Three.

TABLE THREE—STRESS RATIOS

Material	Type 2	Type 3	Type 4
E-Glass	2.65	3.5	3.5
S-Glass	2.65	3.5	3.5
Aramid	2.25	3.0	3.0
Carbon	2.50	3.33	3.33

S7.3 *Bonfire test.* Each CNG fuel container shall be equipped with a pressure relief device. Each CNG fuel container shall completely vent its contents through a pressure relief device or shall not burst while retaining its entire contents when tested in accordance with S8.3.

S7.4. *Labeling.* Each CNG fuel container shall be permanently labeled with the information specified in paragraphs (a) through (d). The information specified in paragraphs (a) through (d) of this section shall be in English and in letters and numbers that are at least 12.7 mm (½ inch) high.

(a) The statement: "If there is a question about the proper use, installation, or maintenance of this container, contact _____." inserting the *CNG fuel container manufacturer's name, address, and telephone number.*

(b) The statement: "Manufactured in _____." inserting the month and year of manufacture of the CNG fuel container.

(c) Maximum service pressure _____ kPa (_____ psig).

(d) The symbol DOT, constituting a certification by the CNG container manufacturer that the container complies with all requirements of this standard.

S8 *Test conditions: fuel container integrity.*

S8.1 *Pressure cycling test.* The requirements of S7.1 shall be met under the conditions of S8.1.1 through S8.1.4.

S8.1.1 Hydrostatically pressurize the CNG container to the service pressure, then to not more than 10 percent of the service pressure, for 13,000 cycles.

S8.1.2 After being pressurized as specified in S8.1.1, hydrostatically pressurize the CNG container to 125 percent of the service pressure, then to not more than 10 percent of the service pressure, for 5,000 cycles.

S8.1.3 The cycling rate for S8.1.1 and S8.1.2 shall not exceed 10 cycles per minute.

S8.1.4 The cycling is conducted at ambient temperature.

S8.2 *Hydrostatic burst test.* The requirements of S7.2 shall be met under the conditions of S8.2.1 through S8.2.2.

S8.2.1 Hydrostatically pressurize the CNG fuel container, as follows: The pressure is increased up to the minimum prescribed burst pressure determined in S7.2.1 or S7.2.2, and held constant at the minimum burst pressure for 10 seconds.

S8.2.2 The pressurization rate throughout the test shall not exceed 1,379 kPa (200 psi) per second.

S8.3 *Bonfire test.* The requirements of S7.3 shall be met under the conditions of S8.3.1 through S8.3.10.

S8.3.1 The CNG fuel container is filled with compressed natural gas and tested at (1) 100 percent of service pressure and (2) 25 percent of service pressure. Manufacturers may conduct these tests using the same container or with separate containers.

S8.3.2 The CNG fuel container is positioned so that its longitudinal axis is horizontal. Subject the entire length to flame impingement, except that the flame shall not be allowed to impinge directly on any pressure relief device. Shield the pressure relief device with a metal plate.

S8.3.3 If the test container is 165 cm (65 inches) in length or less, place it in the upright position and subject it to total fire engulfment in the vertical. The flame shall not be allowed to impinge directly on any pressure relief device. For containers equipped with a pressure relief device on one end, the container is positioned with the relief device on top. For containers equipped with pressure relief devices on both ends, the bottom pressure relief device shall be shielded with a metal plate.

S8.3.4 The lowest part of the container is 102 mm (4 inches) above the liquid surface of the diesel fuel at the beginning of the test.

S8.3.5 The CNG fuel container is tested with the valve and pressure relief device or devices in place.

S8.3.6 The fire is generated by No. 2 diesel fuel.

S8.3.7 The fuel specified in S8.3.6 is contained in a pan such that there is sufficient fuel to burn for at least 20 minutes. The pan's dimensions ensure that the sides of the fuel containers are exposed to the flame. The pan's length and width shall exceed the fuel container projection on a horizontal plane by at least 20 cm (8 inches) but not more than 50 cm (20 inches). The pan's sidewalls shall not project more than 2 cm (0.8 inches) above the level of fuel.

S8.3.8 Time-pressure readings are recorded at 30 second intervals, beginning when the fire is lighted and continuing until the container is completely tested.

S8.3.9 The CNG fuel container is exposed to the bonfire for 20 minutes or until its contents are completely vented.

S8.3.10 The average wind velocity at the container is not to exceed 2.24 meters/second (5 mph).

Issued on September 16, 1994.

Ricardo Martinez,

Administrator.

[FR Doc. 94–23571 Filed 9–21–94; 1:13 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB92

Endangered and Threatened Wildlife and Plants; Endangered Status for Four Ferns From the Hawaiian Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for four plants: *Asplenium fragile* var. *insulare* (no common name (NCN)), *Ctenitis squamigera* (pauoa), *Diplazium molokaiense* (NCN), and *Pteris lidgatei* (NCN). *Asplenium fragile* var. *insulare* is currently known only from the island of Hawaii. The three other species are reported from more than one island: *Ctenitis squamigera* is known from the islands of Oahu, Lanai, and Maui, and *Diplazium molokaiense* and *Pteris lidgatei* are known from Oahu and Maui. The four plant taxa and their habitats have been variously affected or are threatened by one or more of the following: Habitat degradation and/or predation by feral goats, sheep, cattle, axis deer, and pigs; and competition for space, light, water, and nutrients from alien plants. Because of the small number of extant individuals and their severely restricted distributions, populations of these taxa are subject to an increased likelihood of extinction from stochastic events. This final rule implements the Federal protection provided by the Act.

EFFECTIVE DATE: October 26, 1994.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Field Supervisor, at the above address (808/541–2749).

SUPPLEMENTARY INFORMATION:

Background

Asplenium fragile var. *insulare*, *Ctenitis squamigera*, *Diplazium molokaiense*, and *Pteris lidgatei* are endemic to the Hawaiian Islands. *Asplenium fragile* var. *insulare* is currently known only from the island of Hawaii. *Ctenitis squamigera* is known from the islands of Oahu, Lanai, and Maui. *Diplazium molokaiense* and *Pteris lidgatei* are known from Oahu and Maui.

The vegetation of the Hawaiian Islands varies greatly according to elevation, moisture regime, and substrate. Major vegetation formations include forests, woodlands, shrublands, grasslands, herblands, and pioneer associations on lava and cinder substrates. There are lowland, montane, and subalpine forest types. Coastal and lowland forests are generally dry or mesic, and may be open- or closed-canopied, with the canopy generally under 10 meters (m) (30 feet (ft)) in height. Of the four endangered fern taxa, three have been reported from lowland forest habitat. *Ctenitis squamigera* is typically found in lowland mesic forests, while *Pteris lidgatei* appears to be restricted to lowland wet forest. *Diplazium molokaiense* has been reported from lowland to montane forests in mesic to wet settings. Montane forests, occupying elevations between 1,000 and 2,000 m (3,000 and 6,500 ft) are dry to mesic on the leeward (southwest) slopes of Maui and Hawaii. On those islands, as well as Oahu and Lanai, mesic to wet montane forests occur on the windward (northeast) slopes and summits. The dry and mesic forests may be open- to closed-canopied, and may exceed 20 m (65 ft) in stature. *Asplenium fragile* var. *insulare* has been reported from montane mesic and dry forest habitats. *Diplazium molokaiense* is also found in montane mesic forests as well as montane wet forests. At high montane and subalpine elevations, above 2,000 m (6,500 ft) elevation, the forests are usually open-canopied, and form a mosaic with surrounding grasslands and shrublands. Subalpine forests and associated ecosystems are known only from East Maui and the island of Hawaii. *Asplenium fragile* var. *insulare* has been reported from subalpine dry forest and shrubland habitat (Gagne and Cuddihy 1990).

The land that supports these four plant taxa is owned by the State of Hawaii, the Federal government, and private entities. The State lands are under the jurisdiction of the Department of Land and Natural Resources (including the natural area reserves system, forest reserves, and State parks) and the Department of Hawaiian Home Lands. Federally owned land consists of Hawaii Volcanoes National Park, Pohakuloa Training Area on the island of Hawaii, and Schofield Barracks Military Reservation on Oahu. The latter two are under the jurisdiction of the U.S. Army.

Discussion of the Four Taxa

The Hawaiian plants now referred to as *Asplenium fragile* var. *insulare* were considered by William Hillebrand (1888) to be conspecific with *Asplenium fragile* from Central and South America. The Hawaiian plants were subsequently treated as a distinct endemic species, *Asplenium rhomboideum* Brack. (Robinson 1913). However, that species is now considered native to the New World and not present in Hawaii. The name *Asplenium fragile* var. *insulare* was published in 1947, as the Hawaiian plants were considered distinct at the varietal level from the extra-Hawaiian plants (Morton 1947).

Asplenium fragile var. *insulare*, a member of the spleenwort family (Aspleniaceae), is a fern with a short suberect stem. The leaf stalks are 5 to 15 centimeters (cm) (2 to 6 inches (in)) long. The main axis of the frond is dull gray or brown, with two greenish ridges. The fronds are thin-textured, bright green, long and narrow, 23 to 41 cm (9 to 16 in) long, 2 cm (0.8 in) wide above the middle, and pinnate with 20 to 30 pinnae (leaflets) on each side. The pinnae are rhomboidal, 0.8 cm (0.3 in) wide, and notched into two to five blunt lobes on the side towards the tip of the frond. The sori (spore-producing bodies) are close to the main vein of the pinna, with one to two on the lower side and two to four on the upper side (Hillebrand 1888, Wagner and Wagner 1992). The Hawaiian fern species most similar to *Asplenium fragile* var. *insulare* is *Asplenium macraei*. The two can be distinguished by a number of characters, including the size and shape of the pinnae and the number of sori per pinna (Wagner and Wagner 1992).

Asplenium fragile var. *insulare* was known historically from East Maui, where it was recorded from the north slope of Haleakala and Kanahau Hill (Hawaii Heritage Program 1992a6, Hillebrand 1888). On the island of Hawaii, the taxon was found historically below Kalaieha, Laumaia, and Puu Moana on Mauna Kea (HHP 1992a12, 1992a14, 1992a15), Puuwaawaa on Hualalai (HHP 1992a4), west of Keawewai, above Kipuka Ahiu on Mauna Loa (HHP 1992a3, 1992a5), and near Hilo (HHP 1992a2). This fern is now known from eight populations on Hawaii between 1,600 and 2,377 m (5,250 and 7,800 ft) elevation (HHP 1992a7, Shaw 1992). These populations are on Federal, State, and private land. The populations are located at Keanakolu, Puu Huluhulu, Pohakuloa Training Area (nine subpopulations), Kulani Correctional Facility, Keauhou, the Mauna Loa Strip in Hawaii

Volcanoes National Park, Kapapala Forest Reserve, and the summit area of Hualalai (HHP 1992a1, 1992a7 to 1992a11, 1992a13; Shaw 1992; Paul Higashino, The Nature Conservancy of Hawaii, Daniel Palmer, naturalist, and Warren H. Wagner, Jr., University of Michigan, pers. comms., 1992). The eight known populations total about 295 plants (Shaw 1992; Robert Shaw, *in litt.*, 1993; P. Higashino, D. Palmer, and W. Wagner, pers. comms., 1992). This fern is found in *Metrosideros* (Ohia) Dry Montane Forest, *Dodonaea* (Aalii) Dry Montane Shrubland, *Myoporum/Sophora* (Naio/Mamane) Dry Montane Forest (Shaw 1992), and ohia/*Acacia* (koa) forest (HHP 1992a9). *Asplenium fragile* var. *insulare* grows almost exclusively in lava tubes, pits, and deep cracks, with at least a moderate soil or ash accumulation, associated with mosses and liverworts. Infrequently, this fern has been found growing on the interface between younger aa lava flows and much older pahoehoe lava or ash deposits (Shaw 1992). The primary threats to *Asplenium fragile* var. *insulare* are browsing by feral sheep (*Ovis aries*) and goats (*Capra hircus*) and competition with the alien plant *Pennisetum setaceum* (fountain grass). At least one population is threatened by military operations and/or fires resulting from these operations (Loyal Mehrhoff, U.S. Fish and Wildlife Service (USFWS), pers. comm., 1993). Stochastic extinction due to the relatively small number of existing individuals is also of concern.

Ctenitis squamigera was first published as *Nephrodium squamigerum* by Hooker and Arnott in 1832. The species was subsequently placed in the genera *Lastraea*, *Aspidium*, and *Dryopteris*. In 1957 it was transferred to the genus *Ctenitis*, resulting in the currently accepted combination *Ctenitis squamigera* (Degener and Degener 1957).

Ctenitis squamigera, a member of the spleenwort family (Aspleniaceae), has a rhizome (horizontal stem) 5 to 10 millimeters (mm) (0.2 to 0.4 in) thick, creeping above the ground and densely covered with scales similar to those on the lower part of the leaf stalk. The leaf stalks are 20 to 60 cm (8 to 24 in) long and densely clothed with tan-colored scales up to 1.8 cm (0.7 in) long and 1 mm (0.04 in) wide. The leafy part of the frond is deltoid to ovate-oblong, dark green, thin, and twice pinnate to thrice pinnatifid (leaflet sections). The sori are tan-colored when mature and in a single row one-third of the distance from the margin to the midrib of the ultimate segments (Degener and Degener 1957). *Ctenitis squamigera* can be readily distinguished from other Hawaiian species of *Ctenitis* by the dense covering of tan-colored scales on its fronds (Wagner and Wagner 1992).

Historically, *Ctenitis squamigera* was recorded from above Waimea on Kauai (HHP 1992b3); Kaluanui, southeast of Kahana Bay, Pauoa, Nuuanu, Niu, and Wailupe in the Koolau Mountains of Oahu (HHP 1992b4 to 1992b5, 1992b9 to 1992b12); at Kaluaaha Valley on Molokai (HHP 1992b6); in the mountains near Koele on Lanai (HHP 1992b7); in the Honokohau Drainage on West Maui (HHP 1992b1); and at "Kalua" on the island of Hawaii (HHP 1992b13). The seven populations that have been observed within the last 50 years are in the Waianae Mountains of Oahu, Lanai, and East and West Maui. The two Waianae Mountain populations are in the East Makaleha/Kaawa area and at Schofield Barracks (HHP 1991, 1992b2; W. Wagner, pers. comm., 1992). On Lanai, *Ctenitis squamigera* is known from the Waiapaa-Kapohaku area on the leeward side of the island, and Lopa Gulch and Waiopa Gulch on the windward side (HHP 1991). The West Maui population is in Iao Valley (Joel Lau, HHP, pers. comm., 1992). The East Maui population is at Manawainui Stream, 3.5 kilometers (km) (2.2 miles (mi)) north of Kaupo Village (HHP 1992b8). The seven populations are on State, Federal, and private land and total approximately 80 plants (J. Lau and W. Wagner, pers. comms., 1992). This species is found in the understory of forests at elevations of 380 to 915 m (1,250 to 3,000 ft) (HHP 1991, 1992b8), in Ohia/*Diospyros* (Lama) Mesic Forest and diverse mesic forest (HHP 1991). Associated plant taxa include *Myrsine* (kolea), *Psychotria* (kopiko), and *Xylosma* (maua) (HHP 1991; J. Lau, pers. comm., 1992). The primary threats to *Ctenitis squamigera* are habitat degradation by feral pigs (*Sus scrofa*), goats, and axis deer (*Axis axis*); competition with alien plant taxa; and stochastic extinction due to the small number of existing populations and individuals.

Diplazium molokaiense was published by Winifred Robinson (1913) as a new name for the Hawaiian plants that had previously been referred to as the extra-Hawaiian species, *Asplenium arboreum* Willd., by Hillebrand (1888).

Diplazium molokaiense, a member of the spleenwort family (Aspleniaceae), has a short prostrate rhizome. The leaf stalks are 15 to 20 cm (6 to 8 in) long and green or straw-colored. The frond is thin-textured, ovate-oblong, 15 to 50 cm (6 to 20 in) long and 10 to 15 cm (4 to 6 in) wide, truncate at the base, and pinnate with a pinnatifid apex. The sori are 0.8 to 1.3 cm (0.3 to 0.5 in) long and lie alongside the side veins of the pinnae (Hillebrand 1888, Wagner and Wagner 1992). *Diplazium molokaiense* can be distinguished from other species of *Diplazium* in the Hawaiian Islands by a combination of characters, including venation pattern, the length and arrangement of the sori, frond shape, and the degree of dissection of the frond (Wagner and Wagner 1992).

Historically, *Diplazium molokaiense* was found at Kaholuamano on Kauai (HHP 1992c7); Makaleha on Oahu (HHP 1992c3); Kalae, Kaluaaha, Mapulehu, and the Wailau Trail on Molokai (HHP 1992c5, 1992c11 to 1992c13); Mahana Valley and Kaiholena on Lanai (HHP 1992c8, 1992c9); and Wailuku (Iao) Valley and Waikapu on West Maui (HHP 1992c1, 1992c4). However, within the last 50 years, it has been recorded from only one location on Oahu and three on East Maui. The Oahu population is at Schofield Barracks in the Waianae Mountains (HHP 1992c2). The three Maui populations are on the slopes of Haleakala: Two populations on the north slope at Ainahou and Maliko Gulch (HHP 1992c6, 1992c10), and the third on the south slope at Waiopai Gulch (Robert Hobdy, Hawaii Division of Forestry and Wildlife, and J. Lau, pers. comms., 1992). The currently known populations of *Diplazium molokaiense* are between 850 and 1,680 m (2,800 and 5,500 ft) in elevation (HHP 1992c6, 1992c10) in lowland to montane habitats, including Montane Mesic Ohia/Koa Forest (R. Hobdy, pers. comm., 1992). The four populations are on private, State, and Federal land and total 23 individuals (R. Hobdy and W. Wagner, pers. comms., 1992). The primary threats to *Diplazium molokaiense* are habitat degradation by feral goats, cattle (*Bos taurus*), and pigs; competition with alien plant taxa; and stochastic extinction due to the extremely small number of populations and individuals.

Cheilanthes lidgatei was described in 1883 on the basis of a specimen collected on Oahu. Hillebrand (1888) erected the genus *Schizostege* for this anomalous species. In 1897, it was placed in the genus *Pteris* by H. Christ, resulting in the currently accepted combination *Pteris lidgatei* (Wagner 1949).

Pteris lidgatei, a member of the maidenhair fern family (Adiantaceae), is a coarse herb, 0.5 to 1 m (1.6 to 3.3 ft) tall. It has a horizontal rhizome 1.5 cm (0.6 in) thick and at least 10 cm (3.9 in) long when mature. The fronds, including the leaf stalks, are 60 to 95 cm (24 to 37 in) long and 20 to 45 cm (8 to 18 in) wide. The leafy portion of the

frond is oblong-deltoid to broadly ovate-deltoid, thick, brittle, and dark gray-green. The sori are apparently marginal in position, either fused into long linear sori, or more typically separated into distinct shorter sori, with intermediate conditions being common (Wagner 1949). *Pteris lidgatei* can be distinguished from other species of *Pteris* in the Hawaiian Islands by the texture of its fronds and the tendency of the sori along the leaf margins to be broken into short segments instead of being fused into continuous marginal sori (Wagner and Wagner 1992).

Historically, *Pteris lidgatei* was found at Olokui on Molokai (HHP 1992d4) and Waihee on West Maui (HHP 1992d5). The species was also recorded historically at three locations in the Koolau Mountains of Oahu: Waiahole, Lulumahu Stream, and Wailupe (HHP 1992d1, 1992d2, 1992d6). Only three populations totaling 26 individuals, have been seen within the past 50 years. One population, containing 13 plants, is on State-owned land in the Kaluanui Stream drainage on the windward side of the central Koolau Mountains at 530 to 590 m (1,750 to 1,930 ft) elevation (HHP 1992d3; W. Wagner, pers. comm., 1992). The Kaluanui population grows on steep stream banks in wet ōhiā forest with mosses and other ferns, including *Cibotium chamissoi* (hapuù ii), *Dicranopteris linearis* (uluhe), *Elaphoglossum crassifolium*, *Sadleria squarrosa* (àmaù), and *Sphenomeris chusana* (palaá) (HHP 1992d3). One additional plant was discovered on Oahu along the South Kaukonahua Stream (HHP 1993). One population of 12 plants was also discovered along the back wall of Kauaula Valley on Maui (Steve Perlman, National Tropical Botanical Garden, pers. comm., 1993). The primary threats to *Pteris lidgatei* are the alien plant *Clidemia hirta* (Koster's curse), habitat destruction by feral pigs, and stochastic extinction.

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Asplenium fragile* var. *insulare*, *Diplazium molokaiense*, and *Pteris lidgatei* were considered to be endangered. *Ctenitis squamigera* was considered to be extinct. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant taxa, including all of the above taxa considered to be endangered or thought to be extinct. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, including these four species, along with four other proposals that had expired. The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). In these three notices, *Pteris lidgatei* was treated as a category 1 candidate for Federal listing. Category 1 taxa are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals. In the 1980 and 1985 notices, *Asplenium fragile* var. *insulare*, *Ctenitis squamigera*, and *Diplazium molokaiense* were considered category 1* species. Category 1* taxa are those which are possibly extinct. Because new information indicated their current existence, *Asplenium fragile* var. *insulare* (as *Asplenium fragile*) and *Diplazium molokaiense* were given category 1 status in the 1990 notice. In that notice, *Ctenitis squamigera* was still considered a category 1* species. However, because this species was rediscovered within the past 3 years, it is included in this rule.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on petitions that present substantial information indicating that the petitioned action may be warranted within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these taxa was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the Service to consider the petition as having been resubmitted, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991. Publication of the proposal to list the species constituted the final 1-year finding for these four taxa.

On June 24, 1993, the Service published in the **Federal Register** (58 FR 34231) a proposal to list these four ferns from the Hawaiian Islands as endangered. This proposal was based primarily on information supplied by the Hawaii Heritage Program and observations by botanists and naturalists. With the publication of this final rule, the Service determines these four ferns from the Hawaiian Islands to be endangered.

Summary of Comments and Recommendations

In the June 24, 1993, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The public comment period ended on August 23, 1993. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting public comment was published in "The Honolulu Advertiser" on July 16, 1993, "The Maui News" on July 21, 1993, and the "Hawaii Tribune Herald on July 19, 1993. One letter of comment was received offering additional information on the distribution of one taxon. This information has been incorporated into this final rule. One phone call was received opposing the listing and raising the following issue:

Issue: The control of feral ungulates is unnecessary and done using inhumane methods.

Response: Several studies verify that feral ungulates damage native plants and habitats. Feral goats and pigs have been implicated in the damage of native vegetation ranging from lowland to subalpine areas (Mueller-Dombois and Spatz 1972; Spatz and Mueller-Dombois

1973, 1975; Scowcroft and Sakai 1983). Goat browsing damage has been observed on individuals of *Asplenium fragile* var. *insulare* (R. Shaw, *in litt.*, 1993). Goats, sheep, axis deer, and/or pigs threaten all four taxa through habitat degradation. Recovery efforts for these four endangered taxa should include the control of feral ungulates, but this control should be done in the most humane way possible, consistent with the need to protect the habitat of these taxa.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the Act set forth the procedures for adding species to the Federal lists of endangered and threatened species. A species may be determined to be an endangered species due to one or more of the five factors described in section 4(a)(1). The threats facing these four taxa are summarized in Table 1.

TABLE 1.—SUMMARY OF THREATS

Species	Feral animal activity					Alien plants	Fire	Human impacts	Limited numbers [1]
	Goats	Sheep	Cattle	Axis deer	Pigs				
Asplenium fragile var. *insulare*	X	X	.....	.....	.....	X	P	X	X
Ctenitis squamigera	X	.....	.....	X	X	X	P	.....	X
Diplazium molokaiense	X	.....	X	.....	X	X	P	.....	X
Pteris lidgatei	.....	.....	.....	.....	X	X	.....	.....	X

X = Immediate and significant threat.
P = Potential threat.
[1] No more than 100 individuals and/or fewer than 10 populations.

These factors and their application to *Asplenium fragile* Presl var. *insulare* Morton (no common name (NCN)), *Ctenitis squamigera* (Hook. & Arnott) Copel. (pauoa), *Diplazium molokaiense* W. J. Robinson (NCN), and *Pteris lidgatei* (Baker) Christ (NCN) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitat or range.* Native vegetation on all of the main Hawaiian Islands has undergone extreme alteration because of past and present land management practices including ranching, deliberate animal and alien plant introductions, and agricultural development (Cuddihy and Stone 1990, Wagner *et al.* 1985). Military operations threaten at least one population of *Asplenium fragile* var. *insulare* (L. Mehrhoff, pers. comm., 1993). Habitat disturbance caused by human activities such as military construction and road building could detrimentally impact *Asplenium fragile* var. *insulare* at Pohakuloa Training Area (Shaw 1992). The primary threats facing the four endangered taxa include ongoing and threatened destruction and modification of habitat by feral animals and competition with alien plants. All four taxa are threatened by feral animals. Pigs, goats, sheep and cattle were introduced either by the early Hawaiians or more recently by European settlers for food and commercial ranching activities. Over the 200 years following their introduction, their numbers increased and the adverse impacts of these ungulates on native vegetation have become increasingly apparent.

First introduced to Maui in 1793 (Stone and Loope 1987), goats became established on other Hawaiian islands by the 1820s (Cuddihy and Stone 1990, Culliney 1988). Far from controlling their numbers, the era of trade in goatskins (mid-1800s) saw the feral goat population increase into the millions (Culliney 1988). As a result of their agility, they were able to reach more remote areas than other ungulates (Culliney 1988). Feral goats now occupy a wide variety of habitats, from dry lowland forests to alpine grasslands, where they consume native vegetation, trample roots and seedlings, accelerate erosion, and promote the invasion of alien plants (Cuddihy and Stone 1990, Stone 1985, Stone and Loope 1987). Three of the endangered fern taxa are threatened by habitat degradation caused by goats. On Oahu, goats are contributing to the decline of a population of *Ctenitis squamigera* at East Makaleha/Kaawa in the Mokuleia region of the Waianae Mountains (HHP 1991). On Maui, large populations of feral goats persist on the south slope of Haleakala, outside of Haleakala National Park, where they threaten the population of *Diplazium molokaiense* at Waiopai (R. Hobdy, pers. comm., 1992). Goats have reduced the species' habitat there to small remnants. On the island of Hawaii, feral goats are also present in large numbers within Pohakuloa Training Area in the saddle between Mauna Loa and Mauna Kea, where they threaten *Asplenium fragile* var. *insulare* through habitat degradation as well as direct browsing on the plants (R. Shaw, *in litt.*, 1993; J. Lau, pers. comm., 1992).

Feral sheep have become firmly established on the island of Hawaii (Tomich 1986) since their introduction almost 200 years ago (Cuddihy and Stone 1990). Like feral goats, sheep roam the upper elevation dry forests of Mauna Kea (above 1,000 m (3,300 ft)), including Pohakuloa Training Area, causing damage similar to that of goats (Stone 1985). The presence of sheep at Pohakuloa Training Area is contributing to the degradation of the habitat of *Asplenium fragile* var. *insulare*.

Large-scale cattle ranching in the Hawaiian Islands began in the middle of the 19th century on the islands of Kauai, Oahu, Maui, and Hawaii. Ranches, tens of thousands of acres in size, developed on East Maui and Hawaii (Cuddihy and Stone 1990), where most of the State's large ranches still exist. Degradation of native forests used for ranching activities became evident soon after full-scale ranching began. The negative impact of cattle on Hawaii's ecosystems is similar to that described for goats and sheep (Cuddihy and Stone 1990, Stone 1985). Cattle ranching is the primary economic activity on the west and southwest slopes of East Maui, where a population of *Diplazium molokaiense* exists at Waiopai (R. Hobdy, pers. comm., 1992).

Habitat degradation caused by axis deer (*Axis axis*) is now considered to be a major threat to the forests of Lanai (Culliney 1988). Deer browse on native vegetation, destroying or damaging the habitat. Their trampling removes ground cover, compacts the soil, promotes erosion, and opens areas, allowing alien plants to invade (Cuddihy and Stone 1990, Culliney 1988, Scott *et al.* 1986, Tomich 1986). Extensive red erosional scars caused by decades of deer activity are evident on Lanai. Axis deer are

presently actively managed for recreational hunting by the State Department of Land and Natural Resources. All three of the Lanai populations of *Ctenitis squamigera* are negatively affected to some extent by axis deer (HHP 1991).

Feral pigs have invaded primarily wet and mesic forests and grasslands of Kauai, Oahu, Molokai, Maui, and Hawaii. Pigs damage the native vegetation by rooting and trampling the forest floor, and encourage the expansion of alien plants in the newly tilled soil (Stone 1985). Pigs also disseminate alien plant seeds through their feces and on their bodies, accelerating the spread of alien plants through native forest (Cuddihy and Stone 1990, Stone 1985). On Oahu, populations of *Ctenitis squamigera*, *Diplazium molokaiense*, and *Pteris lidgatei* have already sustained loss of individual plants and/or habitat as a result of feral pig activities. The following Oahu populations are threatened by pigs: *Ctenitis squamigera* at Schofield Barracks and nearby East Makaleha-Kaawa; *Diplazium molokaiense* at Schofield Barracks (HHP 1991; J. Lau, pers. comm., 1992); and, in Kaluanui Valley, the only extant population of *Pteris lidgatei* (HHP 1992d3; W. Wagner, pers. comm., 1992). On East Maui, feral pigs threaten the populations of *Diplazium molokaiense* at both Ainahou and Waiopai (R. Hobdy and J. Lau, pers. comms., 1992).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although not currently known to be a factor, unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could seriously impact three of these taxa. *Ctenitis squamigera*, *Diplazium molokaiense*, and *Pteris lidgatei* each number fewer than 100 individuals and fewer than 10 populations, making them especially vulnerable to human disturbance. Such disturbance could promote erosion and greater ingression of alien plant taxa.

C. *Disease or predation.* No evidence of disease has been reported for the four endangered fern taxa. Predation by feral goats and/or sheep has been reported for *Asplenium fragile* var. *insulare* at Pohakuloa Training Area (Shaw 1992, R. Shaw, *in litt.*, 1993). Because no colonies have been completely decimated by the animals, they apparently do not seek out this fern. However, further predation may occur if their preferred forage is not available. Predation by feral goats is a potential threat to the other two sizable known populations of this fern at Keauhou and Kulani (Linda Cuddihy, Hawaii Volcanoes National Park, pers. comm., 1992).

D. *The inadequacy of existing regulatory mechanisms.* Three of the endangered fern taxa have populations located on privately owned land. All four also occur on State and Federal lands. The known populations of these species located on Federal lands are inadequate to ensure their long-term survival. There are no State laws or existing regulatory mechanisms at the present time to protect or prevent further decline of these plants on State or private land. However, Federal listing automatically invokes listing under Hawaii State law. Hawaii's Endangered Species Act (HRS, Sect. 195D–4(a)) states, "Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the Endangered Species Act [of 1973] shall be deemed to be an endangered species under the provisions of this chapter." This State law prohibits cutting, collecting, uprooting, destroying, injuring, or possessing any listed species of plant on State or private land, or attempting to engage in any such conduct. However, the regulations are difficult to enforce because of limited personnel. Further, the State law encourages conservation by State government agencies. The State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, Sect. 195D–5(c)). Funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). Listing of these four plant taxa therefore triggers, reinforces and supplements the protection available under State law. The Act also provides additional protection to these four species because it is a violation of the Act for any person to remove, cut, dig up, damage, or destroy any such plant in an area not under Federal jurisdiction in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

E. *Other natural or manmade factors affecting their continued existence.* The small number of populations and of individual plants of these taxa increases the potential for extinction from stochastic events. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals or the only known extant population. For example, only 4 populations of *Diplazium molokaiense* are known, totaling 23 individuals. *Pteris lidgatei* is known from 3 populations totaling 26 individuals, *Ctenitis squamigera* from 7 populations, and *Asplenium fragile* var. *insulare* from 8 populations. Three of the endangered taxa are estimated to number no more than 100 known individuals and the fourth (*Asplenium fragile* var. *insulare*) numbers fewer than 300 known individuals.

All four endangered fern taxa are threatened by competition with one or more alien plant taxa. Koster's curse, a noxious shrub first reported on Oahu in 1941, had spread through much of the Koolau Mountains by the early 1960s, and spread to the Waianae Mountains by 1970 (Cuddihy and Stone 1990). This shrub replaces native plants of the forest understory and poses a serious threat to the population of *Pteris lidgatei* located in Kaluanui Valley on the windward side of the Koolau Mountains (J. Lau, pers. comm., 1992). It also poses a threat to populations of *Ctenitis squamigera* and *Diplazium molokaiense* in the Waianae Mountains (HHP 1991; J. Lau, pers. comm., 1992).

Noxious alien plants such as *Schinus terebinthifolius* (Christmasberry) have invaded the dry to mesic lowland regions of the Hawaiian Islands. Introduced to Hawaii prior to 1911, Christmasberry forms dense thickets that shade out and displace other plants (Cuddihy and Stone 1990). Both of the Oahu populations of *Ctenitis squamigera*, the West Maui population, and one of the Lanai populations are negatively affected by this invasive plant, as is the population of *Diplazium molokaiense* at Schofield Barracks (HHP 1991; J. Lau, pers. comm., 1992). *Psidium cattleianum* (strawberry guava), a shrub or small tree, has become naturalized on all of the main Hawaiian islands except Niihau and Kahoolawe. Like Christmasberry, strawberry guava is capable of forming dense stands that exclude other plant taxa (Cuddihy and Stone 1990). This alien plant grows primarily in mesic and wet habitats and provides food for several alien animal taxa, including feral pigs and game birds, that disperse the plant's seeds through the forest (Smith 1985, Wagner *et al.* 1985). Strawberry guava is considered one of the greatest alien plant threats to Hawaii's wet forests and is known to pose a direct threat to the populations of *Ctenitis squamigera* and *Diplazium molokaiense* in the Waianae Mountains on Oahu (J. Lau, pers. comm., 1992). It also threatens the populations of *Ctenitis squamigera* on Lanai and East Maui (HHP 1991; J. Lau, pers. comm., 1992).

Fountain grass is a fire-adapted bunch grass that has spread rapidly over bare lava flows and open areas on the island of Hawaii since its introduction in the early 1900s. Fountain grass is particularly detrimental to Hawaii's dry forests because it is able to invade areas once dominated by native plants, where it interferes with plant regeneration, carries fires, and increases the likelihood of fires (Cuddihy and Stone 1990, Smith 1985). Fountain grass threatens the native vegetation at PTA, competing with *Asplenium fragile* var. *insulare* (J. Lau, pers. comm., 1992).

Toona ciliata (Australian red cedar) is a fast-growing tree that has been extensively planted and has become naturalized in mesic to wet forests (Wagner *et al.* 1990). This tree threatens populations of *Ctenitis squamigera* and *Diplazium molokaiense* in the Waianae Mountains of Oahu (HHP 1991; J. Lau, pers. comm., 1992). Those same populations are threatened by *Syzygium cumini* (Java plum), a large evergreen tree that forms a dense cover, excluding other taxa. Java plum is an aggressive invader of undisturbed lowland mesic and dry forests (Smith 1985). *Myrica faya* (firetree) has attracted a great deal of attention and concern for its recent explosive increase on several Hawaiian islands. It is capable of forming a dense, nearly monospecific stand (Cuddihy and Stone 1990). Because of its ability to fix nitrogen, it outcompetes native taxa and enriches the soil so that other alien plants can invade (Wagner *et al.* 1990). The Lanai populations of *Ctenitis squamigera* are threatened by the invasion of firetree (HHP 1991; J. Lau, pers. comm., 1992). Although not yet widespread in the Hawaiian Islands, *Cinnamomum burmanii* (Padang cassia) could become a dominant component of Hawaiian mesic forests (J. Lau, pers. comm., 1992). A dense and enlarging stand of it threatens a population of *Ctenitis squamigera* on Lanai (HHP 1991).

Fire constitutes a potential threat to three of the endangered fern taxa growing in dry to mesic grassland, shrubland, and forests on the islands of Oahu and Hawaii. On Oahu, fire is a potential threat to *Ctenitis squamigera* and the population of *Diplazium molokaiense* on the Schofield Barracks Military Reservation. These populations are located near an area currently utilized as a military firing range. Fires originating on the firing range have the potential of spreading into the native forest habitat of the two fern taxa (J. Lau, pers. comm., 1992). Fire is also a potential threat to the population of *Asplenium fragile* var. *insulare* at Pohakuloa Training Area on the island of Hawaii (Shaw 1992), where military exercises utilizing live ammunition are conducted. The presence of fountain grass at Pohakuloa Training Area increases the potential of fire.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining this final rule. Based on this evaluation, this rulemaking will list four taxa—*Asplenium fragile* var. *insulare*, *Ctenitis squamigera*, *Diplazium molokaiense*, and *Pteri lidgatei*—as endangered. All 4 endangered taxa are known from fewer than 10 populations and 3 of the taxa number no more than 100 individuals. The four taxa are threatened by one or more of the following: Habitat degradation and/or predation by feral goats, sheep, cattle, deer, and pigs; and competition from alien plants. Small population size and limited distribution make these taxa particularly vulnerable to extinction from stochastic events. Because these four taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act.

Critical habitat is not being proposed for the four taxa included in this rule for reasons discussed in the "Critical Habitat" section below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these taxa. All of the taxa have extremely low total populations and face anthropogenic threats. The publication of precise maps and descriptions of critical habitat in the **Federal Register**, as required in designation of critical habitat, would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline. All involved parties and the major landowners have been notified of the general location of these taxa. Protection of the habitat of the taxa will be addressed through the recovery process and through the section 7 consultation process.

Two Federal departments conduct activities within the currently known habitat of the endangered plants—the National Park Service of the Department of the Interior and the Department of Defense. One taxon is found in Hawaii Volcanoes National Park, where Federal law protects all plants from damage or removal. Three taxa are located on land owned or leased by the Department of Defense or on nearby State lands. Three of the taxa are found on Schofield Barracks Military Reservation. Although military and ordnance training takes place on this federally owned property, the impact areas and buffer zones for these activities are outside the area where the taxa occur. One taxon is known from Pohakuloa Training Area on the Island of Hawaii. The Army is aware of the presence and location of this taxon, and any Federal activities that may affect the continued existence of these plants will be addressed through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for these taxa is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities and it would not provide overriding benefits.

Available Conservation Measures

Conservation measures provided to species listed as endangered under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Listing can encourage and result in conservation actions by Federal, State, private organizations, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the State and requires that recovery plans be developed for listed species. The requirements for Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

A population of *Asplenium fragile* var. *insulare* is located in Hawaii Volcanoes National Park. Laws relating to national parks prohibit damage or removal of any plants growing in the parks. Another population of *Asplenium*

fragile var. *insulare* is located within the Pohakuloa Training Area. The Army is aware of the location of this taxon, and any Federal activities that may affect the continued existence of these plants will be addressed through the section 7 consultation process. *Ctenitis squamigera, Diplazium molokaiense,* and *Pteris lidgatei* are found on Schofield Barracks Military Reservation. These plants are not located inside impact or buffer zones for ordnance training. There are no other known Federal activities that occur within the present known habitat of these four plant taxa.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species set forth a series of general prohibitions and exceptions that apply to all endangered plant species. With respect to the four fern taxa listed as endangered, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant species; transport such species in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale such species in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. It is anticipated that few permits would ever be sought or issued because the taxa are not common in cultivation or in the wild.

Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (503/231–2063; FAX 503/231–6243).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866. In accordance with the 1982 amendments to the Endangered Species Act, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not applicable to section 4 listing rules. This rule contains no recordkeeping requirements as defined under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Office (see **ADDRESSES** section).

Authors

The primary authors of this final rule are Marie M. Bruegmann, Joan E. Canfield, and Derral R. Herbst of the Pacific Islands Office (see **ADDRESSES** section) (808/541–2749).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under the families indicated, in alphabetical order, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
* * *		*	*	*	*	*
Adiantaceae—maidenhair fern family:						
Pteris lidgatei	None	U.S.A. (HI)	E	553	NA	NA
* * *		*	*	*	*	*
Aspleniaceae—spleenwort family:						
Asplenium fragile var. *insulare.*	None	U.S.A. (HI)	E	553	NA	NA
* * *		*	*	*	*	*
Ctenitis sqamigera	Pauoa	U.S.A. (HI)	E	553	NA	NA
* * *		*	*	*	*	*
Diplazium molokaiense	None	U.S.A. (HI)	E	553	NA	NA
* * *		*	*	*	*	*

Dated: September 9, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–23751 Filed 9–23–94; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

Availability of a Draft Recovery Plan for the California Condor (Gymnogyps californianus) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the California Condor (Gymnogyps californianus). Recovery recommendations in the draft plan would likely affect six Southern California counties; Ventura, Los Angeles, Santa Barbara, San Luis Obispo, Kern and Tulare. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received by November 25, 1994, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contracting: Craig A. Faanes, Field Supervisor, Ecological Services, Ventura Field Office, 2140 Eastman Avenue, Suite 100, Ventura, California 93003, or telephone (805) 644–1766. Written comments and materials regarding the draft plan should be addressed to the above address. Comments and materials received are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Mesta, Condor Program Coordinator, at the above address or telephone (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comment into account in the course of implementing approved recovery plans.

As a result of illegal shooting, poisoning, collisions with man-made structures and the loss of habitat, the California condor was extirpated from the wild in 1987. The last wild condor was captured and brought into a captive breeding program in an attempt to save the species from extinction. The California Condor Recovery Plan outlines recovery actions to re-establish the California condor in the wild. The recovery actions will be concentrated in the following six Southern California counties; Ventura, Santa Barbara, San Luis Obispo, Los Angeles, Kern, and Tulare.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531).

Dated: September 17, 1994.

Michael J. Spear,

Regional Director.

[FR Doc. 94–23721 Filed 9–23–94; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 931100–4043; I.D. 092194A]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the allowance of the total allowable catch (TAC) of pollock for the offshore component in the BS.

EFFECTIVE DATE: 12 noon, Alaska local time, (A.l.t.), September 24, 1994, until 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The allowance of pollock TAC for vessels catching pollock for processing by the offshore component in the BS was established by the final 1994 initial groundfish specifications (59 FR 7656, February 16, 1994) and a subsequent reserve apportionment (59 FR 21673, April 26, 1994) as 799,662 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), determined, in accordance with § 675.20(a)(8), that the allowance of pollock TAC for the offshore component in the BS soon will be reached. Therefore, the Regional Director established a directed fishing allowance of 789,662 mt after determining that 10,000 mt will be taken as incidental catch in directed fishing for other species in the BS. Consequently, NMFS is prohibiting directed fishing for pollock by operators of vessels catching pollock for processing by the offshore component in the BS effective from 12 noon, A.l.t., September 24, 1994, until 12 midnight, A.l.t., December 31, 1994.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from OMB review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–23279 Filed 9–21–94; 12:53 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 59, No. 185
Monday, September 26, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

RIN 3206–AF53

Temporary, Seasonal, and Intermittent Employment in the Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise its regulations to consolidate excepted service authorities for filling temporary, intermittent, and seasonal jobs, to remove coverage for appointments that no longer meet the criteria for exception, and to establish a new excepted service authority which could be used by agencies to meet urgent, short-term hiring needs.

DATES: Comments must be received on or before November 25, 1994.

ADDRESSES: Send or deliver written comments to Leonard R. Klein, Associate Director for Career Entry, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tracy E. Spencer, (202) 606–0830, or fax (202) 606–2329.

SUPPLEMENTARY INFORMATION: This proposal is the second step in OPM's program to simplify temporary hiring authorities and ensure their appropriate use. Regulations were proposed on February 1, 1994, (59 FR 4601) to set a uniform service limit for temporary appointments in both the competitive and the excepted service at 1 year with no more than one 1-year extension. The regulations now proposed would revise and consolidate paragraphs (i) and (m) of § 213.3102, which both cover temporary, intermittent, and seasonal employment in the excepted service. The revision would eliminate overlapping and obsolete appointing authorities

In July 1993, OPM advised all agencies that use Schedule A authorities which were established specifically for temporary or seasonal employment that, if they wished to retain the authorities, they would need to justify why examining for the positions is impracticable. Our intent was to identify the situations where excepted service hiring is appropriate and to replace individual agencies' authorities with a Governmentwide authority that could be used by any agency in those situations. However, agencies reported only one situation that would have general applicability and one that may have general applicability. The rest are so agency-specific that creation of a Governmentwide authority would serve no practical purpose.

Temporary and less-than-full-time hiring in remote locations. Several agencies need to hire short-term or supplemental staff, often on short notice, in locations that are remote or isolated from a population center. Examining for these jobs is impracticable when: Only residents of the immediate area can be expected to reach the work site whenever they are needed; the amount of employment involved would not encourage outside applicants to move to the isolated area; and staff from an OPM or agency examining office could not readily reach the location to administer tests or conduct recruiting.

We propose to establish a Schedule A authority that would define "remote/isolated location" and would limit excepted employment to 1,040 working hours in a service year. Any agency could use the authority, without prior OPM approval, for jobs that meet the conditions set out in the regulation.

Urgent, short-term hiring needs. OPM is abolishing the Federal Personnel Manual (FPM), as recommended by the National Performance Review. OPM has granted certain authorities to agencies through the FPM that are not specifically reflected in regulations. One of those authorities (set out in section 2–9 of FPM Chapter 316) allows agencies to make temporary appointments not to exceed 30 days and to extend those appointments for no more than 30 additional days without regard to normal appointment procedures. Unless that authority is incorporated in a regulation, it will be lost when FPM Chapter 316 is abolished in December 1994.

We believe the special need authority serves a valid purpose and should be continued as an excepted service appointing authority. (Competitive requirements have never applied to special need appointments.) Service limits and conditions for use of the current special need authority would remain the same. The new Schedule A authority would be available for use by any agency without prior OPM approval.

Fellowships and related programs. Three agencies suggested creation of a Governmentwide authority covering post-doctoral fellowships, internships, and similar programs designed to increase the pool of candidates in a particular specialty for all employers, not just the Federal Government. On May 13, 1994, we published proposed regulations that would create a consolidated authority for employment of students. However, several agencies have internship or fellowship programs that provide professional experience to individuals who have completed their formal education.

We agree that a consolidated authority for those appointments would be appropriate. We expect to consider consolidation of most Schedule A and B appointing authorities—not only those covering temporary hiring—and may propose creation of a fellowship authority. In the meantime, however, we are not sure that such an authority should be restricted to temporary employment. Many appointments under existing programs are made for periods longer than 1 year.

Consequently, we have not included a specific provision for internship or fellowship appointments in the proposed authority for temporary Schedule A appointments. We welcome your comments on this issue, however, and will add such a provision if there is sufficient interest. If there is not enough interest to justify a Governmentwide authority, we would entertain requests for single-agency exceptions from agencies wishing to establish temporary fellowship programs.

Other positions. Several agencies reported specific situations in which competitive hiring procedures would not be appropriate or effective However, because each of these

situations is unique to the agency involved, issuance of Governmentwide Schedule A authorities would serve no practical purpose. Therefore, the proposed regulation would provide for exception of additional positions with prior OPM approval.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

List of Subjects in 5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302 (E.O. 12364, 47 FR 22931), 3307, 8337(h), and 8456.

2. In § 213.3102, paragraph (i) is revised and paragraph (m) is removed and reserved, as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(i) Temporary and less-than-full-time positions, as follows:

(1) Positions in remote/isolated locations where examination is impracticable. A remote/isolated location is outside the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area. For this purpose, a population center is a town with housing, schools, health care, stores and other businesses in which the servicing examining office can schedule tests and/or reasonably expect to attract applicants. An individual appointed under this authority may not be employed in the same agency under a combination of this and any other appointment for more than 1,040 working hours in a service year. Temporary appointments under this authority may be extended in 1-year increments, with no limit on the number of such extensions, as an exception to the service limits in § 213.104.

(2) Positions for which a critical hiring need exists. This includes both short-term positions and continuing positions that an agency must fill on an interim basis pending completion of competitive examining, clearances, or other procedures required for a longer appointment. Appointments under this authority may not exceed 30 days and may be extended for up to an additional 30 days if continued employment is essential to the agency's operations. The appointments may not be used to extend the service limit of any other appointing authority. An agency may not employ the same individual under this authority for more than 60 days in any 12-month period.

(3) Other positions for which OPM determines that examining is impracticable.

* * * * *

(m) [Reserved]

* * * * *

[FR Doc. 94–23716 Filed 9–23–94; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD

24 CFR Part 100

[Docket No. N–94–1706; FR–3502–N–03]

Housing for Older Persons: Defining Significant Facilities and Services; Notice of Extension of Public Comment Deadline on Proposed Rule; and Change in Location of Phoenix AZ Public Meeting

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Extension of Public Comment Deadline on Proposed Rule; and Change in Location of Public Meeting in Phoenix, AZ.

SUMMARY: On July 7, 1994, HUD published a proposed rule that would implement the rulemaking required by section 919 of the Housing and Community Development Act of 1992. Section 919 requires the Secretary of HUD to issue "rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older persons' in such section." The July 7, 1994 proposed rule provided for the public comment period to expire on October 5, 1994. This notice extends the public comment period to November 30, 1994.

Additionally, on August 9, 1994, HUD published a notice announcing four public meetings to be held across the country to discuss the July 7, 1994 proposed rule and to provide an additional opportunity for members of the public to submit comments on the rule. This notice also advises of a change in location for the Phoenix, AZ public meeting.

DATES: Comment Due Date: November 30, 1994.

ADDRESSES: Interested persons are invited to submit comments on the proposed rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

The September 29, 1994 meeting in Phoenix, AZ, will be held at the Holiday Inn Crowne Plaza (the Grand Ballroom), 111 North Central Ave., Phoenix, AZ, 85004.

FOR FURTHER INFORMATION CONTACT: Peter Kaplan, Office of Regulatory Initiatives and Federal Coordination, Office of Fair Housing and Equal Opportunity, Room 5240, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500, telephone (202) 708–2904 (not a toll-free number). The toll-free TDD number is: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 7, 1994 (59 FR 34902), HUD published a proposed rule that would implement the rulemaking required by section 919 of the Housing and Community Development Act of 1992. Section 919 requires the Secretary of HUD to issue "rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older persons' in such section." The regulations governing "housing for older persons" are codified in 24 CFR part 100, subpart E, and the July 7, 1994 proposed rule (also referred to as the "Significant Facilities proposed rule") would amend subpart E to provide the definitions required by section 919.

Extension of Public Comment Period

The July 7, 1994 proposed rule provided for a 90-day public comment period which is scheduled to close on October 5, 1994. Because of the significant public interest in this rule, HUD is extending the public comment period to November 30, 1994.

Change in Location of Phoenix, AZ Meeting

Additionally, on August 9, 1994 (59 FR 40502), HUD published a notice announcing four public meetings to be held across the country to discuss the Significant Facilities proposed rule and to provide an additional opportunity for members of the public to submit comments on the rule.

The August 9, 1994 notice announced that public meetings would be held in Fontana, CA, on August 15, 1994; Tampa, FL, on August 25, 1994; Phoenix, AZ on September 29, 1994; and Washington, DC, on October 6, 1994. This notice advises of a change in location for the Phoenix, AZ public meeting.

The September 29, 1994 meeting in Phoenix, AZ, will be held at the Holiday Inn Crowne Plaza (the Grand Ballroom), 111 North Central Avenue, Phoenix, AZ 85004.

Dated: September 20, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–23708 Filed 9–23–94; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

Reform of Federal Student Aid for Postsecondary Education and Training

AGENCY: Department of Education.

ACTION: Notice of regional meetings.

SUMMARY: The Assistant Secretary for Postsecondary Education will convene four public meetings to obtain public comment for use in the development of policies relating to reform of Federal student aid for postsecondary education and training.

DATES: Meetings will be held on October 5, 13, 28 and November 2, 1994. See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Meetings will be held in Seattle, WA; Kansas City, MO; Boston, MA; and Atlanta, GA. See **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For additional information about these regional meetings, call Jennifer Peck at (202) 708–5547 Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

The Assistant Secretary would appreciate that persons who plan to attend a regional meeting notify the Department by calling (202) 260–8462.

SUPPLEMENTARY INFORMATION: In order to increase the opportunity for public participation in the development of policies relating to the reform of Federal student aid for postsecondary education and training, the Assistant Secretary is convening a series of meetings in different parts of the country and invites individuals and representatives of groups involved in student financial assistance programs to attend these meetings. The Secretary particularly encourages students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies and lenders to attend and participate in these meetings. These regional meetings are convened to discuss only reform of Federal student aid programs for postsecondary education and training.

To facilitate discussion, the Assistant Secretary has identified three major areas for discussion: (a) Can Federal student aid be better targeted to ensure access to postsecondary education? (b) Can postsecondary vocational education and training better meet the needs and objectives of students and institutions? (c) Can regulatory and administrative simplicity help institutions better fulfill their educational missions and target their resources on educational rather than administrative tasks?

More specifically, the Assistant Secretary seeks comments, ideas, and suggestions on the following issues:

(a) Would providing a larger amount of aid to poor students improve access and encourage persistence in postsecondary education?

(b) Would establishing a guaranteed amount of Federal aid that would be available to every individual promote better awareness of and access to postsecondary education?

(c) Would a merit-based supplement to need-based aid encourage students to excel academically and better position them to reap the rewards of postsecondary education?

(d) How can the Department of Education better interact with the States and other Federal agencies to improve access to and excellence in postsecondary education?

(e) What strategies for skills training and workforce preparation are most effective?

(f) How should the Federal government support basic education for disadvantaged adults?

(g) Should there be separate student aid programs for vocational study compared with collegiate programs? How would a vocational program be defined?

(h) What is the best way to coordinate among various local, State, and Federal programs that offer vocational education?

(i) Would different rules and regulations for different groups of institutions assist in providing institutions the flexibility to accomplish their educational mission?

(j) How could administrative workload be reduced while maintaining or improving accountability to taxpayers?

(k) What information is essential to collect from institutions and students to ensure accountability and integrity of programs, while reducing the overall reporting burden?

(l) What performance measures should the Department use as a measure of institutional ability to reduce the regulatory burden of administering the student aid programs?

Participants are welcome to raise other issues relating to Federal student aid programs in addition to the above questions. The dates and location of the four regional meetings appear below.

(a) October 5, 1994, 9:00 a.m. to 12:00 p.m., University of Washington, Husky Union Building (HUB) Auditorium, Seattle, Washington.

(b) October 13, 1994, 1:00 p.m. to 4:00 p.m., Kansas City Convention Center, Bartle Hall, 301 West 13th Street, Room 1204–North Side, Kansas City, Missouri.

(c) October 28, 1994, 9:00 a.m. to 12:00 p.m., Northeastern University, the Student Center Ballroom, Boston, Massachusetts.

(d) November 2, 1994, 9:00 a.m. to 12:00 p.m., Georgia State University, The Urban Life Conference Center, Atlanta, Georgia.

If you wish to provide written comments, you may bring your comments to the meetings or send them to Lynn Mahaffie, 600 Independence Avenue, SW., ROB–3, Room 4082, Washington, DC 20202, FAX number (202) 708–9107.

(Authority: 20 USC 1001, et seq.)

Dated: September 20, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–23665 Filed 9–23–94; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 131, and 132

[FRL–5078–6]

RIN 2040–AC08

Proposed Water Quality Guidance for the Great Lakes System

AGENCY: U.S. Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: The purpose of this document is to announce the extension of the comment period for receiving comments on the three reports announced in the August 30, 1994, **Federal Register** that EPA is considering as it develops the final Water Quality Guidance for the Great Lakes System (Guidance). The proposed Guidance was published in the April 16, 1993, **Federal Register**, with corrections published in the **Federal Register** on August 9, 1993, and September 13, 1993.

On August 30, 1994, EPA published in the **Federal Register** a notice of data availability and request for comments on three reports that it is considering in developing the final Guidance. The three reports made available in the August 30, 1994, notice are: "Results of Simulation Tests Concerning the Percent Dissolved Metal in Freshwater Toxicity Tests"; "1991–1992 Michigan Sport Anglers Fish Consumption Study"; and "Great Lakes Water Quality Initiative Technical Support Document for the Procedure to Determine Bioaccumulation Factors, July 1994." EPA wants to ensure that the public has adequate opportunity to comment on whether any of the recommendations in these reports should be adopted in developing the final Great Lakes Water Quality Guidance.

DATES: Written comments should be submitted on or before October 14, 1994. Comments postmarked after this date may not be considered.

ADDRESSES: Send written comments to Wendy Schumacher, Water Quality Branch (WQS–16J), U.S. EPA, Region V, 77 West Jackson Blvd., Chicago, Illinois, 60604 (telephone: 312–886–0142). Commenters are requested to submit one original and four copies of their written comments. A copy of the reports identified in this document are available for inspection and copying at the U.S. EPA Region V, 77 W. Jackson Blvd., Chicago, Illinois, by appointment only. Appointments may be made by calling Wendy Schumacher (telephone: 312–886–0142). A reasonable fee will be charged for photocopies. The three reports are also available by mail upon request for a fee by sending a written request to the above address.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Fenner, Water Quality Branch Chief, (WQS–16J), U.S. EPA Region V, 77 W. Jackson Blvd., Chicago, Illinois, 60604 (telephone: 312–353–2079).

SUPPLEMENTARY INFORMATION: EPA announced the availability of three reports in the August 30, 1994, **Federal Register** (59 FR 44678). The three reports are: "Results of Simulation Tests Concerning the Percent Dissolved Metal in Freshwater Toxicity Tests"; "1991–1992 Michigan Sport Anglers Fish Consumption Study"; and "Great Lakes Water Quality Initiative Technical Support Document for the Procedure to Determine Bioaccumulation Factors, July 1994," have been placed in the administrative record for the Great Lakes Guidance because EPA is considering information in these documents as it finalizes the Great Lakes Guidance. A summary of the information provided in these three reports and the issues relevant to the Great Lakes Guidance are discussed in the August 30, 1994, notice. Readers are referred to that notice for additional details.

In this notice, EPA is extending the public comment period for the three reports to October 14, 1994, to provide additional time for public review and comment. EPA believes that extension of the comment period for this limited purpose is appropriate because of the complexity of the issues raised in the three reports announced on August 30, 1994.

Dated: September 20, 1994.

Robert Perciasepe,

Assistant Administrator.

[FR Doc. 94–23775 Filed 9–23–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 53

[FAR Case 91–78]

Federal Acquisition Regulation; Small Business Subcontracting Reporting (SF 295)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a proposed rule to amend the Federal Acquisition Regulation (FAR) to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises. This regulatory action was subject to Office of Management and Budget (OMB) review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before November 25, 1994, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4037, Washington, DC 20405.

Please cite FAR case 91–78 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott at (202) 501–0168 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 91–78.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of Federal Procurement Policy (OFPP) issued Policy Letter 91–1, Governmentwide Small Business and Small Disadvantaged Business Goals for Procurement Contracts, which requires agencies to report the number and dollar value of subcontracts awarded to small business concerns, small disadvantaged business concerns and women-owned small businesses. Currently, the SF 295, Summary Subcontract Report, which is used to compile agency-wide data for subcontracting programs, collects dollar value of subcontracts awarded but does not collect the number of subcontracts awarded.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because small businesses are exempt from the requirement to submit the report form. An Initial Regulatory

Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR Case 91–78), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for approval of a revised information collection requirement concerning Office of Management and Budget (OMB) Control Number 9000–0007 is being submitted to OMB under 44 U.S.C. 3501, *et seq.* Public comments concerning this request will be invited through a **Federal Register** notice appearing in this same issue.

List of Subjects in 48 CFR Part 53

Government procurement.

Dated: September 20, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 53 be amended as set forth below:

PART 53—FORMS

1. The authority citation for 48 CFR part 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c)

2. Section 53.219 is amended by revising paragraph (b) to read as follows:

53.219 Small business and small disadvantaged business concerns.

* * * * *

(b) *SF 295 (REV XX/XX), Summary Subcontract Report. (See 19.704(a)(5).)* SF 295 is authorized for local reproduction and a copy is furnished for this purpose in part 53 of the looseleaf edition of the FAR. Pending issuance of a new edition of the form:

(1) Add a column to the face of the form for blocks 11A through 13, entitled, "Number of Awards", to report the number of subcontract awards to: 11A, Small Business Concerns; 11B, Large Business Concerns; 11C, Total; 12, Small Disadvantaged Business Concerns; 13, Women-owned Small Business Concerns.

(2) In blocks 11A, 11B, and 12, revise the parenthetical in the title to read (Number, $ amt., and % of 11C dollars).

[FR Doc. 94–23700 Filed 9–23–94; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 567

[Docket No. 94–74, Notice 01]

RIN No. 2127–AE71

Certification

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice follows NHTSA's partial granting of a petition filed by Michael Robinson, Director, Michigan Department of State Police. The petitioner suggested making mandatory the standardized display of a permanent metal vehicle manufacturer's label for all motor vehicles with a gross vehicle weight rating of over 4,536 kilograms (kg) (10,000 pounds (lb)). The petitioner suggested that the label be fabricated of a minimum gauge metal with raised or recessed letters and numbers, be riveted to the vehicle body at specified standard locations and, in the case of trailers, be given reasonable protection from damage.

The agency proposes to amend its vehicle certification regulation to require the standardized display of a permanent metal vehicle manufacturer's label for all motor vehicles with a GVWR greater than 4,536 kg (10,000 lb). The label would contain the same information as currently required, with either raised or recessed letters, and be riveted or otherwise permanently secured to the vehicle at specified locations. The petitioner's suggestions that the label be constructed of a specified heavy gauge metal and that the label on trailers be given special protection are denied.

DATES: Comments on this notice must be received on or before November 25, 1994.

Proposed Effective Date: If adopted, the amendments proposed in this notice would become effective 180 days after publication of the final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5109, Washington, DC 20590. Docket room hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Leon DeLarm, Chief, Pedestrian, Heavy Truck and Child Crash Protection Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC 20590, (202) 336–4920.

SUPPLEMENTARY INFORMATION:

I. Background

Part 567, Certification, sets forth the agency's requirements for the content and location of the label certifying the compliance of a motor vehicle with the Federal Motor Vehicle Safety Standards. The regulation requires manufacturers of motor vehicles, except vehicles manufactured in two or more stages, to affix a label to each vehicle they produce containing the information relating to that vehicle required by § 567.4(g). The labels are not required to be made out of any particular type of material but, unless riveted, must be permanently affixed so that they cannot be removed without destroying or defacing them.

For motor vehicles other than trailers and motorcycles, the label shall be affixed either to the hinge pillar, door-latch post, or the door edge that meets the door-latch post next to the driver's seating position. If those locations are not practicable, the label may be placed on the left side of the instrument panel or if that is not practicable, the inward-facing surface of the door next to the driver's seating position. If none of the above locations are practicable, the manufacturer must notify NHTSA of that fact and, with appropriate drawings or photographs, suggest an alternative location. Such suggestion must be submitted for approval to the Administrator, NHTSA. Whatever its location, the label must be easily readable without moving any part of the vehicle except the outer door, and the lettering on the label must be of a color that contrasts with the label's background.

Trailer labels must be located on the left forward half of the vehicle. Labels on motorcycles must be affixed to a permanent member of the vehicle and as close as possible to the intersection of the steering post with the handle bars.

49 CFR 567.5 prescribes the labeling requirements for vehicles manufactured

in two or more stages. Section 567.5(a) requires chassis-cab manufacturers to affix a label in the form and location specified in § 567.4 to each chassis-cab manufactured by them. Section 567.5(b) requires intermediate-stage manufacturers to affix a label in the form and location specified in § 567.4 to each chassis-cab to which they are required to furnish an addendum to the incomplete vehicle document prescribed in § 568.4, if such chassis-cab has been certified by its manufacturer in accordance with § 567.5(a). Finally, § 567.5(c) requires final-stage manufacturers to affix a label of the type and in the manner and form specified in § 567.4 to each vehicle, containing the information specified in that section relating to that vehicle.

II. The Petition

Michael Robinson, Director of the Michigan Department of State Police, petitioned the agency to amend § 567.4 to require that manufacturers' labels on vehicles weighing more than 4,536 kg (10,000 lb) be made of a heavy gauge metal of a specified thickness with raised or recessed letters and numbers and be riveted to the vehicle. He further suggested that the labels be located on the door latch post near the driver's seating position. If that is not practicable, then he wanted the label to be placed on a permanent vertical section of the cab's floor area to the left of the driver's seating position and which would be immediately visible with the driver's side door open. If that location is still not practicable, he wanted the label to be affixed to the portion of the instrument panel to the left of the steering wheel. He suggested that the label for a bus be affixed, if practicable, to the ceiling area above the windshield or windows in the driver's seating area. If none of the suggested locations are practicable, then the manufacturer must notify NHTSA as currently required by § 567.4(c).

Mr. Robinson stated that he submitted his petition because the Motor Carrier Division of his Department has identified a significant problem in locating information on the gross vehicle weight ratings (GVWR) and vehicle identification numbers (VIN) of commercial vehicles. He asserted that there are currently no Federal standards requiring labels of standard size, thickness, or format displaying either the GVWR or the VIN on commercial vehicles. Under current requirements, the label containing that information may be located in any one of several different places and in one of several different formats, including decals, adhesive labels, and riveted metal plates. Mr. Robinson alluded to the current requirement that each vehicle have a label showing the GVWR and VIN affixed when the vehicle is manufactured, but stated that there is no Federal requirement that the label remain affixed thereafter. Thus, the labels on many vehicles either fall off or are otherwise removed or obliterated after manufacture, usually by accident.

Mr. Robinson stated that prior to the inception of the Commercial Driver License (CDL) requirements, the GVWR was not normally used by law enforcement officers. Now, however, it is very important for officers to be able to determine the GVWR of commercial vehicles. Under the CDL program, drivers are licensed to operate only those vehicles within the GVWR ranges of vehicles for which the drivers have met the qualifications. Law enforcement officers often have difficulty determining the GVWRs of commercial vehicles because the labels on those vehicles are often damaged, painted over or removed, usually accidently, during the life of the vehicle. The reason for the absence of the GVWRs is that many labels are not designed or constructed to hold up under the rigors of commercial vehicle operation.

The petitioner asserted that the manufacturer's label is a prime source of the VIN and the only means that law enforcement officers have to determine the GVWR of a given vehicle. Without the GVWR, police officers who are unfamiliar with commercial vehicle operation are unable to determine the CDL GVWR range into which a particular vehicle falls. In such a case, officers cannot determine the correct enforcement action. As a result, drivers may be allowed to continue operating vehicles which they are not qualified to operate. Thus, with more certain access to VIN and GVWR information, police officers could more readily inspect and investigate commercial vehicles during routine traffic stops.

Mr. Robinson further stated that a review of reports about truck and bus accidents over the several months prior to submission of the petition revealed a large number of discrepancies in entries in the reports regarding the GVWR, presumably stemming from the investigating officers' inability to locate or read the vehicle label. He argued that this difficulty results in collection of erroneous data which is then submitted to the SAFETYNET data management system established and maintained by the Federal Highway Administration (FHWA). The SAFETYNET system is a cooperative effort to share commercial vehicle data electronically between the FHWA and the various states.

On another point, Mr. Robinson stated that as of July, 1991, the National Crime Information Center (NCIC) estimated that approximately 10,494 commercial trucks and 18,865 commercial-type trailers were classified as unrecovered stolen vehicles in the United States. He argued that identification and recovery of those vehicles is greatly hampered by the lack of uniform display of VINs on commercial vehicles. He believed that if a more standardized and permanent manufacturer's label were used on commercial vehicles, law enforcement personnel could more easily and reliably inspect and identify commercial vehicles and could possibly locate and recover many more of such vehicles.

III. Analysis of the Petition

Although NHTSA has no independent information indicating a problem in determining the GVWR of commercial vehicles in use or, if there is such a problem, its magnitude, the agency nevertheless has no reason to doubt Mr. Robinson's assertions. Further, if the problem exists in Michigan, it is reasonable to assume that it exists in other states.

The apparent existence of this problem concerns the agency. For example, the Surface Transportation Assistance Act of 1982, 49 U.S.C. App. at section 2302, authorizes the Secretary of Transportation to provide grants to states for enforcement programs applicable to commercial motor vehicle safety. Pursuant to that authority, the Federal Highway Administration (FHWA) established the Motor Carrier Safety Assistance Program (MCSAP) (49 CFR 350). MCSAP provides grants to states to support a national motor carrier safety enforcement program. The program is designed to reduce the number and severity of accidents and hazardous materials incidents of commercial motor vehicles by substantially increasing the level and effectiveness of enforcement activity and the likelihood that safety defects, driver deficiencies, and unsafe carrier practices will be detected and corrected. The increasing Federal and state involvement in that program has led to a corresponding increase in the number of functions common to both Federal and state officers. This increase has, in turn, led to an increasing need for efficient communications and exchange of accurate data. SAFETYNET, therefore, has become even more important to this effort by combining all functions into a single user-friendly data-sharing system for the use of both Federal and state personnel involved in commercial motor carrier operations.

A typical SAFETYNET profile consists, among other things, of the type of operation, GVWR, cargo, any accident data, inspection data including any violations and out-of-service actions, work performance reports, and data entry verification. Thus, if law enforcement officers are collecting incomplete or incorrect data because of lack of GVWR information, as Mr. Robinson asserts, the effectiveness of the SAFETYNET system could be compromised.

The agency agrees that, assuming the accuracy of the petitioner's figures relating to stolen vehicles, a permanent metal label could assist in the identification and recovery of at least some of the great number of unrecovered stolen commercial vehicles in the United States.

FHWA has informed NHTSA that it supports the suggestions in Mr. Robinson's petition, believing that a permanent metal label will help enforce Federal as well as state motor carrier safety regulations. While the petitioner's primary focus seems to be enforcement of CDL requirements, FHWA believes that the importance of this rulemaking is broader in scope than that. The gross vehicle weight rating (or gross combination weight rating (GCWR) for a combination vehicle) is one of three independent criteria used to determine the applicability of the Federal Motor Carrier Safety Regulations (FMCSR) for vehicles and drivers engaged in interstate commerce. The FMCSRs cover driver qualifications, hours of service, accident record keeping, vehicle inspection, repair and maintenance, controlled substances and alcohol testing, in addition to the CDL. The GVWR/GCWR weight threshold for the general applicability of the FMCSRs is 10,001 pounds. The recently published final rules on controlled substances and alcohol testing apply to every person who operates a commercial vehicle in interstate or intrastate commerce, and is subject to the CDL requirements of 49 CFR 383. Part 383 includes a 26,001 pound threshold as one if its applicability criteria. The FHWA believes, therefore, that implementing the suggestions in this petition will help motor carriers in identifying vehicles and drivers that are subject to the FMCSRs and Federal and state officials responsible for enforcing the regulations. The permanent metal labels should provide more comprehensive enforcement of such regulations by making possible better identification of the vehicles concerned. FHWA also expressed support for the petitioner's suggestion that the labels on trailers be given reasonable protection since trailer labels are particularly susceptible to damage during commercial vehicle operations.

Mr. Robinson suggested that the thickness of the metal label be specified. NHTSA does not believe that is necessary, at least not at this time. NHTSA tentatively concludes that the primary benefit is to be obtained from specifying the use of a metal label. The agency has no information indicating that specifying a particular minimum thickness would increase that benefit significantly. NHTSA understands the petitioner's reasoning that a label of a specified heavy gauge would be more durable and more likely to survive the rigors of commercial operation. On the other hand, the agency also believes that manufacturers must have the flexibility to accommodate the thickness of the labels to the door designs of the various vehicles they produce. NHTSA is confident that manufacturers will affix labels whose sturdiness is consistent with the designs of their vehicles. If, in the future, information obtained from actual commercial vehicle experience indicates that it might be appropriate to specify a minimum thickness, appropriate rulemaking action can be taken at that time.

The agency questions whether the petitioner's four suggested permissible locations for the labels on vehicles other than trailers are too limited as compared to the five permissible locations currently allowed. In addition, the petitioner suggested the floor area as a permissible location for the label. The agency is concerned that locating the label on the vehicle floor or even on the instrument panel could place the inspecting officer in an awkward position, perhaps even in jeopardy, by having to lean into the cab of the truck and turn his or her head to read the label. Further, the possibly limited ambient light on the vehicle floor could make it difficult for an inspector to read a label there. On the other hand, inspecting officers routinely stand on the running boards of trucks to check inside for the driver's log, labels, as well as for drugs and/or alcohol. Thus, a label on the floor or the instrument panel could normally be seen by the inspector from the running board.

The petitioner also suggested locating the label for buses inside the vehicle and above the driver's side windshield or window. NHTSA has no objection to that. The agency's purpose in specifying the locations for the manufacturer's certification label was to provide an unobstructed view of the label, i.e., to ensure that the labels are easy to see and read in any vehicle. Since it is not practicable to inspect buses with passengers on board, buses are usually mounted on hoists or platforms for inspection either at the beginning or at the end of their runs. Therefore, the inspectors usually walk through buses during their inspections, making the label easily visible to the inspector if it is mounted on or above the driver's side windshield or window as the petitioner suggested.

NHTSA recognizes the merit in the petitioner's suggestion that the location of the label should be standardized in only a limited number of places so that there would be greater predictability about precisely where law enforcement personnel can expect to find the label. Nevertheless, NHTSA solicits comments on whether the permissible locations of the permanent metal label, including those on buses, should be standardized as proposed by the petitioner, or whether the larger number of permissible locations should be maintained as currently allowed. NHTSA further solicits comments on the locations in which labels should be permitted, if not in the currently-permitted locations or in the locations suggested by the petitioner.

Finally, Mr. Robinson suggested that the labels for trailers be located so as to provide reasonable protection from damage. NHTSA does not believe that this change is necessary at this time. NHTSA believes that specifying a permanent metal label with either raised or recessed letters and numbers, riveted or otherwise permanently affixed to the vehicle, would sufficiently enhance the durability of the label on trailers to make the data readable even after many years of use. Again, should actual experience in the future indicate that further action is appropriate to protect trailer labels, rulemaking can be initiated at that time.

NHTSA made a preliminary cost analysis of the proposed requirements. The analysis suggests that the incremental cost range of metal labels as proposed would be between $0.25 and $2.50 per label, depending on size, thickness, and quantity ordered. NHTSA estimates that for those manufacturers that purchase labels in large quantities, the incremental cost could range between $0.25 and $0.75. For those manufacturers that would purchase labels in smaller quantities, the cost range could be between $2.00 and $2.50 per label.

Label manufacturers typically put only certain information on labels. The vehicle manufacturer then applies the remainder of the required information at the plant, such as the GVWR, GAWR, VIN, etc. Thus, if letters and numbers are raised or recessed, vehicle

manufacturers, as well as possibly some label manufacturers, may have to purchase the equipment to emboss the metal labels at a cost of between $300 and $1,500.

Agency data shows that 263,580 motor vehicles with GVWR greater than 4,536 kg (10,000 lb) and 126,904 trailers were sold in 1992. Another 35,444 school buses, which would also be included in the vehicles covered by this notice, were sold in 1991, bringing the combined total affected vehicles to approximately 425,928. The agency has no data on how many vehicles, if any, already meet the proposed requirements. Assuming that none do, the agency calculates that the total range of incremental annual costs of this proposal would be $106,482 to $1,064,810.

V. Issues for NHTSA Evaluation

In order to obtain additional data for the agency's evaluation of the issues raised by this petition, NHTSA solicits comments on the following specific issues regarding certification labels:

1. Is there a problem with manufacturers' labels on motor vehicles with a GVWR of over 4,536 kg (10,000 lb) becoming obliterated, painted over, or otherwise rendered illegible during the service life of the vehicle? If so, in what percentage of those vehicles does this occur? Are particular types, brands, models, or model years of vehicles more susceptible to this problem than others?

2. What costs do manufacturers currently incur in the purchase, printing, and application of labels?

3. What sorts of materials are currently utilized for the labels on vehicles with GVWR more than 4,536 kg (10,000 lb)? What percent of currently utilized labels are made of metal?

4. What sizes are the labels currently affixed to motor vehicles with GVWR of more than 4,536 kg (10,000 lb)? How are they affixed?

5. What incremental costs would vehicle manufacturers incur to purchase, emboss, and affix permanent metal labels with raised or recessed letters and numbers as proposed?

6. What incremental costs, if any, would label manufacturers incur in producing metal labels with raised or recessed letters and numbers?

7. In what quantities do vehicle manufacturers currently order labels?

8. How much time is currently required for vehicle manufacturers to prepare and affix labels?

9. How much time would be required for vehicle manufacturers to rivet or otherwise permanently affix metal labels as proposed?

10. What special problems, if any, would vehicle manufacturers have in affixing permanent metal labels as proposed?

11. Should a particular metal, such as aluminum, stainless steel, etc., be specified for the labels?

12. Should a minimum thickness be prescribed for the labels?

13. Should a minimum size be specified for the labels?

14. Should a minimum height or depth be specified for the letters and numbers embossed on the labels?

15. Should any information be added to or deleted from that currently required to appear on the label?

16. Should trailers with a GVWR of 4,536 kg (10,000 lb) or less also meet the requirements being proposed for large trailers?

17. Should the agency require some different approach, other than the proposed metal label requirement, for preserving VIN labels?

V. Agency Proposal

Based on the assertions by Mr. Robinson in his petition and the analysis discussed above, NHTSA proposes to amend 49 CFR 567.4 to require that, for vehicles with GVWR greater than 4,536 kg (10,000 lb), the manufacturer's certification label required by that part be made of metal. The agency also proposes that the letters and numbers on the label be raised or recessed, and that the label be riveted or otherwise permanently affixed to each vehicle in the locations suggested by the petitioner.

The agency believes that by requiring permanent metal labels, commercial vehicle safety would be enhanced by ensuring that commercial vehicles are being driven by drivers who are duly qualified and licensed to operate them. This would have the effect of identifying and removing unfit and unqualified drivers from the nation's highways, thereby enhancing the safety of the motoring public. In addition, a permanent metal label on which the GVWR and VIN remain legible throughout all or the greater part of the service life of a commercial vehicle would help to ensure that the information supplied to the SAFETYNET system would be more accurate, thus contributing directly to the enforcement efforts discussed above.

Further, to reflect rulemaking conducted by the agency pursuant to the Imported Vehicles Safety Compliance Act of 1988, Pub. L. 100–562, 102 Stat. 2818 (49 U.S.C. 30141, 30146), NHTSA proposes to amend existing § 567.4(k) to substitute "49 CFR 591.5(f)" in place of the current "19 CFR 12.80(b)(1)."

VI. Rulemaking Analyses and Notices

A. EO 12866 and DOT Regulatory Policies and Procedures

This notice was not reviewed under E.O. 12866. NHTSA has considered the impact associated with this rulemaking action and has concluded that it is not significant under the Department of Transportation's regulatory policies and procedures. As explained above, this action merely would require that the motor vehicle manufacturer's label, which is already required for all motor vehicles, be made of metal and be permanently affixed to those vehicles with a GVWR greater than 4,536 kg (10,000 lb). The costs would range from $0.25 to $2.50 per vehicle, for a total incremental annual cost of between $106,482 and $1,064,820. NHTSA has concluded, therefore, that the effect of this proposed action would be so minimal as not to warrant preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a preliminary regulatory flexibility analysis.

The agency believes that few, if any, motor vehicle manufacturers qualify as small businesses, although some label manufacturers might so qualify. Those small businesses would be affected only to the extent that they may be required to purchase equipment to emboss information on metal labels, if they do not already have such equipment, at a one-time cost of between $300 and $1,500. Such cost could be amortized over the life of the equipment, and/or passed on to customers and, eventually, to consumers. Small organizations and small governmental units would be affected by the proposed amendment only to the extent of having to pay an additional $0.25 to $2.50 per large vehicle.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act and has determined that implementation of this action would have no significant impact on the quality of the human environment.

D. EO 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in Executive Order

12612 and has determined that this proposal does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

E. Civil Justice Reform

The proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the standard is identical to the Federal standard. However, the United States Government, a state, or a political subdivision of a state may prescribe a standard for a motor vehicle or item of motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

VII. Comments

Interested persons are invited to submit comments on this proposal. It is requested but not required that any comments be submitted in 10 copies each.

Comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address shown above, and 7 copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in 49 CFR part 512, the agency's confidential business information regulation.

All comments received on or before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the extent possible, comments received after the closing date will be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for public inspection in the docket. NHTSA will continue to file relevant information in the docket after the closing date, and it is recommended that interested persons continue to monitor the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 567

Labeling, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 567 would be amended as follows:

PART 567—CERTIFICATION

1. The authority citation for Part 567 would be revised to read as follows:

Authority: 49 U.S.C. 322, 30115, 30117, 30166, 32502, 32505, 33102, 33103, 33108, and 33109; delegation of authority at 49 CFR 1.50.

2. Section 567.4 would be revised as follows:

§ 567.4 Requirements for manufacturers of motor vehicles.

(a) Each manufacturer of motor vehicles (except vehicles manufactured in two or more stages) shall affix to each vehicle a label, of the type and in the manner described below, containing the statements specified in paragraph (j) of this section.

(b) The location of the label shall be such that it is clearly visible and easily readable without moving any part of the vehicle except an outer door.

(c) For motor vehicles with a gross vehicle weight rating (GVWR) greater than 4,536 kilograms (kg) (10,000 pounds (lb)) and all trailers, the label shall be fabricated of metal, with raised or recessed letters and numbers, and, except for trailers, shall be riveted or otherwise permanently affixed to the vehicle in one of the locations specified in paragraph (e) of this section.

(d) For motor vehicles with a GVWR of 4,536 kg (10,000 lb) or less, the label shall, unless riveted, be permanently affixed in such a manner that it cannot be removed without destroying or defacing it.

(e)(1) For motor vehicles with a GVWR greater than 4,536 kg (10,000 lb) other than buses and trailers, the label shall be riveted to the door latch post next to the driver's seating position. If that location is not practicable, then to a permanent vertical position of the cab floor area to the left of the driver's seating position. If that location is not practicable, the label shall be riveted to the left side of the instrument panel, left of the steering wheel.

(2) For buses, the label shall be riveted to the ceiling area above the windshield or window(s) in the driver's seating area.

(3) If none of the preceding locations are practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, Washington, DC 20590.

(f) For motor vehicles with a GVWR of 4,536 kg (10,000 lb) or less, except trailers and motorcycles, the label shall be affixed either to the hinge pillar, door latch post, or the door edge that meets the door latch post, next to the driver's seating position, or if none of these locations are practicable, to the left side of the instrument panel. If the latter location is not practicable, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. If none of the preceding locations are practicable, notification of that fact shall be submitted to the Administrator, NHTSA, as provided in paragraph (d)(3) of this section.

(g) The label for trailers shall be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle.

(h) The label for motorcycles shall be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except the steering system.

(i) Except for the label specified in paragraph (c) of this section, the lettering on the label shall be of a color that contrasts with the background of the label.

(j) The label shall contain the following statements, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, in the order shown:

(1) Name of manufacturer: Except as provided in paragraphs (j) (1) (i), (ii), and (iii) of this section, the full corporate or individual name of the

actual assembler of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals, may be used. The name of the manufacturer shall be preceded by the words "Manufactured By" or "Mfd By." In the case of imported vehicles, where the label required by this section is affixed by the Registered Importer, the name of the Registered Importer shall also be placed on the label in the manner described in this paragraph, directly below the name of the final assembler.

(i) If a vehicle is assembled by a corporation that is controlled by another corporation that assumed responsibility for the conformity with the standards, the name of the controlling corporation may be used.

(ii) If a vehicle is fabricated and delivered in complete but unassembled form, such that it is designed to be assembled without special machinery or tools, the fabricator of the vehicle may affix the label and name itself as the manufacturer for the purposes of this section.

(iii) If a trailer is sold by a person who is not its manufacturer, but who is engaged in the manufacture of trailers and assumes legal responsibility for all duties and liabilities imposed by the Act with respect to that trailer, the name of that person may appear on the label as the manufacturer. In such a case the name shall be preceded by the words "Responsible Manufacturer" or "Resp Mfr."

(2) Month and year of manufacture: This shall be the time during which work was completed at the place of main assembly of the vehicle. It may be spelled out, as "June 1970," or expressed in numerals, as "670."

(3) "Gross Vehicle Weight Rating" or "GVWR," followed by the appropriate value in kilograms with the commensurate weight in pounds shown in parentheses, which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 68 kilograms (150 pounds) times the vehicle's designated seating capacity. However, for school buses the minimum occupant weight shall be 55 kilograms (120 pounds).

(4) "Gross Axle Weight Rating" or "GAWR," followed by the appropriate value in kilograms with the commensurate weight in pounds shown in parentheses, for each axle, identified in order from front to rear (e.g. front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may, at the option of the manufacturer, be stated as a single value, with label indicating to which axles the ratings apply.

Examples of Combined Ratings

GAWR: (a) All axles—1850 kg (4080 lb) with 7.00–15 LT (D) tires.

(b) Front—5442 kg (12,000 lb) with 10.00–20(G) tires.

First intermediate to rear—6803 kg (15,000 lb) with 12.00–20(H) tires.

(5) The statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above. The expression "U.S." or "U.S.A." may be inserted before the word "Federal."

(i) In the case of passenger cars manufactured on or after September 1, 1978, the expression "and bumper" shall be included in the statement following the word "safety."

(ii) In the case of 1987 and subsequent model year passenger cars manufactured on or after April 24, 1986, the expression "safety, bumper, and theft prevention" shall be substituted in the statement for the word "safety."

(6) Vehicle identification number.

(7) The type classification of the vehicle as defined in § 571.3 of this chapter (e.g. truck, MPV, bus, trailer).

(k) Multiple GVWR-GAWR ratings.

(1) (For passenger cars only) In cases where different tire sizes are offered as a customer option, a manufacturer may at his option list more than one set of values for GVWR and GAWR, in response to the requirements of paragraphs (j) (3) and (4) of this section. If the label shows more than one set of weight rating values, each value shall be followed by the phrase "with _____ tires," inserting the proper tire size designations. A manufacturer may at his option list one or more tire sizes where only one set of weight ratings is provided.

Passenger Car Example

GVWR: 1995 kg (4400 lb) with G78–14B tires, 2177 kg (4800 lb) with H78–14B tires.

GAWR: Front—907 kg (2000 lb) with G78–14B tires at 165 kPa (24 psi), 990 kg (2200 lb) with H78–14B tires at 165 kPa (24 psi).

Rear—1088 kg (2400 lb) with G78–14B tires at 193 kPa (28 psi), 1179 kg (2600 lb) with H78–14B tires at 193 kPa (28 psi).

(2) (For multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles) The manufacturer may, at its option, list more than one GVWR-GAWR-tire-rim combination on the label, as long as the listing conforms in content and format to the requirements for tire-rim-inflation information set forth in Standard No. 120 of this chapter (§ 571.120).

(3) At the option of the manufacturer, additional GVWR-GAWR ratings for operation of the vehicle at reduced speeds may be listed at the bottom of the certification label following any information that is required to be listed.

(l) [Reserved]

(m) A manufacturer may, at his option, provide information concerning which tables in the document that accompanies the vehicle pursuant to § 575.6(a) of this chapter apply to the vehicle. This information may not precede or interrupt the information required by paragraph (j) of this section.

(n) In the case of passenger cars admitted to the United States under 49 CFR 591.5(f) to which the label required by this section has not been affixed by the original producer or assembler of the passenger car, a label meeting the requirements of this paragraph shall be affixed by the importer before the vehicle is imported into the United States, if the car is from a line listed in Appendix A of part 541 of this chapter. This label shall be in addition to, and not in place of, the label required by paragraphs (a) through (m), inclusive, of this section.

(1) The label shall, unless riveted, be permanently affixed in such a manner that it cannot be removed without destroying or defacing it.

(2) The label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position or, if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

(3) The lettering on the label shall be of a color that contrasts with the background of the label.

(4) The label shall contain the following statements, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, in the order shown:

(i) Model year (if applicable) or year of manufacture and line of the vehicle as reported by the manufacturer that produced or assembled the vehicle. "Model year" is used as defined in § 565.3(h) of this chapter. "Line" is used as defined in § 541.4 of this chapter.

(ii) Name of the importer: The full corporate or individual name of the importer of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents and the middle initial of individuals, may be used. The name of

the importer shall be preceded by the words "Imported By."

(iii) The statement: "This vehicle conforms to the applicable Federal motor vehicle theft prevention standard in effect on the date of manufacture."

(o) (1) In the case of a passenger car imported into the United States under 49 CFR 591.5(f) which does not have an identification number that complies with paragraph S4.2, S4.3, and S4.7 of 49 CFR 571.115 at the time of importation, the Registered Importer shall permanently affix a label to the vehicle in such a manner that, unless the label is riveted, it cannot be removed without being destroyed or defaced. The label shall be in addition to the label required by paragraph (a) of this section, and shall be affixed to the vehicle in a location specified in paragraph (f) of this section.

(2) The label shall contain the following statement, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, with the location on the vehicle of the manufacturer's identification number provided in the blank: ORIGINAL MANUFACTURER'S IDENTIFICATION NUMBER SUBSTITUTING FOR U.S. VIN IS LOCATED _____.

Issued on September 21, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–23732 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 567

Certification

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking submitted by the American Association of Motor Vehicle Administrators (AAMVA) concerning vehicle identification numbers (VINs). One of this agency's Federal motor vehicle safety standards requires all motor vehicles to have a VIN. In addition, NHTSA's certification regulation requires the certification label on each motor vehicle to bear that vehicle's VIN. AAMVA suggested that NHTSA amend its certification regulation to require the VIN of each trailer to be marked in a second location on the trailer to ensure the VIN is present on the vehicle in the event the certification label becomes illegible or lost. The petitioner also believes marking the VIN in a second location will help state officials find the VIN during vehicle inspections.

NHTSA is denying the petition because the agency has an ongoing rulemaking on the issue of improving the permanency and legibility of vehicle certification labels on trailers and other motor vehicles. Since those labels include the VIN, possible improvements to certification labels would address petitioner's concerns about the permanency and legibility of the VIN.

FOR FURTHER INFORMATION CONTACT: Dr. Leon DeLarm, Chief, Pedestrian, Heavy Truck and Child Crash Protection Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; (202) 366–4920.

SUPPLEMENTARY INFORMATION:

NHTSA's certification regulation, 49 CFR 567, *Certification*, requires motor vehicle manufacturers to affix a certification label to each motor vehicle. The label constitutes the manufacturer's certification that the vehicle complies with all applicable Federal motor vehicle safety standards. Section 567.4 specifies where the label must be located and what information it must include. With respect to trailers, the label must be located on the forward half of the left side of the vehicle such that it is easily readable from outside the vehicle without moving any part of the vehicle. One of the items of information required to be displayed on the label is the VIN.

The VIN is a unique identifier that facilitates NHTSA's analysis of accident data and assessment of vehicle recall campaigns. Standard No. 115, *Vehicle Identification Number—Basic Requirements*, 49 CFR 571.115, requires each motor vehicle to have a VIN. It further requires the VIN to be marked clearly and indelibly either on a part of the vehicle that is not designed to be removed or on a separate plate or label, such as the vehicle certification label required by 49 CFR 567. 49 CFR 565, *Vehicle Identification Number—Content Requirements*, specifies the content and format for the VIN. Among other things, Part 565 requires the VIN to provide information on the characteristics of the vehicle, such as its gross vehicle weight rating (GVWR).

Since a trailer's VIN is placed on the certification label, the extent to which a trailer's VIN remains legible throughout the life of the vehicle depends on the permanency of that label. Part 567 specifies that, unless riveted, the label must be permanently affixed such that it cannot be removed without destroying it (§ 567.4(b)). However, Part 567 does not specify any other requirements that ensure the permanency of the certification label, such as requiring the label to be fabricated from a durable material.

The Petition

AAMVA petitioned NHTSA to improve the permanency of the VIN marking. AAMVA petitioned on behalf of its members, state motor vehicle administrators. They use the VIN to register vehicles, to determine proper ownership of vehicles, and to find the GVWR that the vehicle manufacturer assigned to the vehicle. The petitioner said that state officials use the GVWR information for, among other purposes, determining whether a vehicle is overloaded on the highways. AAMVA suggested that NHTSA require trailers to have the VIN stamped, etched or otherwise permanently marked in a location other than the certification label. AAMVA stated that certification labels are typically plastic coated and become illegible with age and exposure to the elements. Thus, the information on the label—particularly the VIN—becomes "illegible long before the useful life of the trailer" ends. Petitioner believed that a second VIN marking would provide a backup means for determining the weight ratings and other pertinent information for the trailer.

Agency Decision

NHTSA is denying AAMVA's petition. The petitioner's justification for its suggestion, missing GVWR information, is being addressed for trailers in a separate NHTSA rulemaking. That rulemaking action seeks to improve the permanency and legibility of the certification labels used on commercial motor vehicles. It was initiated when NHTSA granted in part a petition for rulemaking submitted by the Michigan Department of State Police (MDSP).

The MDSP raised concerns similar to those of the AAMVA regarding the ability of state officials to locate GVWR and VIN information on commercial vehicles. The MDSP stated that law enforcement officers often have difficulty determining the GVWRs of commercial vehicles because the labels on those vehicles are often damaged, painted over or removed, usually accidently, during the life of the vehicle. The petitioner believed that a vehicle's VIN and GVWR information should be made more accessible and legible on commercial vehicles to enable police officers to more readily inspect and investigate commercial vehicles during

routine traffic stops. Among other things, the MDSP suggested requiring certification labels for large commercial vehicles, including trailers, to be made of metal, with raised or recessed letters and numbers (see RIN 2127–AE71).

In response to the MDSP petition, NHTSA will consider the need to improve the permanency and legibility of the certification labels for large trailers, and possible ways to improve the labels. Since these labels include the VIN, any improvements to the certification label will have the effect of improving the permanency and legibility of the VIN. In addition, NHTSA will request comments in that rulemaking on whether small trailers should also meet the requirements being proposed for large trailers, and whether some different approach, other than the proposed metal label requirement, would be more effective for the certification labels. Since that rulemaking will address AAMVA's concerns about the permanency and legibility of VIN markings, AAMVA's petition is moot.

Authority: 49 U.S.C. 322, 30111, 30162; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on September 21, 1994.

Barry Felrice,

Associate Administrator, for Rulemaking.

[FR Doc. 94–23731 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Extension of Public Comment Period on Three Proposed Rules To List Four Species as Endangered and One Species as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of public comment period.

SUMMARY: The Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended, gives notice that a public hearing will be held on the proposed endangered status for the San Diego fairy shrimp, Quino checkerspot butterfly, Laguna Mountains skipper butterfly, and *Downingia concolor* var. *brevior* and on the proposed threatened status for *Limnanthes gracilis* ssp. *parishii*. The hearing will allow all interested parties to submit oral or written comments on these proposals.

DATES: A public hearing will be held from 6 to 8 p.m. on Wednesday, October 19, 1994, in Rancho Bernardo (North County San Diego), California. The public comment period will be extended to October 31, 1994. Comments from all interested parties must be received by October 31, 1994.

ADDRESSES: The hearing on Wednesday, October 19, 1994, will be held at the Radisson Hotel, 11520 West Bernardo Court, Rancho Bernardo (North County San Diego), California. Written comments and materials may be submitted at the hearing or may be sent directly to the Field Supervisor, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection during business hours by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Gail Kobetich, (telephone 619/431–9440).

SUPPLEMENTARY INFORMATION:

Background

The Laguna Mountains skipper, a small butterfly within the skipper family (Hesperiidae), is about 3 centimeters (cm) (1 inch) in length and distinguished from other subspecies by extensive white wing markings. The Laguna Mountains skipper occurs in open meadows of pine forest and is currently found at one site in the Laguna Mountains and one site on Mount Palomar in San Diego County.

The Quino checkerspot, is a small member of the brush-footed butterfly family (Nymphalidae). It is about 3 cm (1 inch) in length and checkered with dark brown, reddish, and yellowish spots. The Quino checkerspot is restricted to sunny openings on clay soils formed from gabbro parent materials within shrubland habitats of the interior foothills of southwestern California and northwestern Baja California, Mexico. The Quino checkerspot may have been one of the most abundant butterflies in San Diego, Orange, and western Riverside Counties during the early part of the twentieth century. Currently five to six populations remain in San Diego and southern Riverside Counties.

The San Diego fairy shrimp, is a member of the Branchinectidae, a freshwater crustacean, family in the Order Anostraca (fairy shrimp). It is a small and delicate animal with large stalked compound eyes, no carapace, and 11 pairs of swimming legs. The San Diego fairy shrimp is restricted to vernal pools in San Diego County from San Marcos and Ramona south to Otay Mesa and at Valle de Palmas in northwestern Baja California, Mexico.

Downingia concolor var. *brevior*, is a low, blue-flowered annual that is restricted to grassy meadows that are vernally wet (wet during the rainy season) with saturated soil conditions. It is restricted to the Cuyamaca Valley in the vicinity of Cuyamaca Lake, San Diego County. *Limnanthes gracilis* var. *parishii*, is a low, widely-branching annual with white flowers. There are fewer than 20 population of *L. gracilis* ssp. *parishii* in the Palomar, Cuyamaca, and Laguna Mountains and on Santa Rosa Plateau. The largest population, which includes most of the individuals, is found in the Cuyamaca Valley.

These species are threatened by one or more of the following factors: grazing, habitat destruction and fragmentation from agricultural and urban development, alteration of wetlands, recreational activities, collection by lepidopterists and other human disturbances, stochastic events, exotic plants, and the inadequacy of existing regulatory mechanisms.

On August 4, 1994, the Service published three rules in the **Federal Register** that proposed the Laguna Mountains skipper and Quino checkerspot as endangered (59 FR 39868), the San Diego fairy shrimp as endangered (59 FR 39874), and *Downingia concolor* var. *brevior* as endangered and *Limnanthes gracilis* ssp. *parishii* as threatened (59 FR 39879). In response to a formal request from William Hazeltine, environmental consultant, Oroville, California, the Service has scheduled a public hearing on Wednesday, October 19, 1994 at the Radisson Hotel, 11520 West Bernardo Court, Rancho Bernardo (North County San Diego), California.

Those parties wishing to make a statement for the record should bring a copy of their statement to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments will be given the same weight as oral comments. Written comments may be submitted at the hearing or mailed to the address given in the **ADDRESSES** section of this notice. The comment period closes on October 31, 1994.

Authority

The authority for this action is the Endangered Species Act of 1973, as

amended. (16 U.S.C. 1361–1407, 16 U.S.C. 1531–1544, 16 U.S.C. 4201–4245, Pub. L. 99–625, 100 Stat. 3500), unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

(Proposed Rule and Notice of Public Hearing: San Diego fairy shrimp, Quino checkerspot, Laguna Mountains skipper, *Downingia concolor* var. *brevior*; endangered without critical habitat; *Limnanthes gracilis* ssp. *parishii*, threatened without critical habitat.)

Dated: September 19, 1994.

Thomas Dwyer,

Acting Regional Director, Region U.S. Fish and Wildlife Service.

[FR Doc. 94–23555 Filed 9–23–94; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

RIN 1018–AC55

Export of American Ginseng Harvested in 1994–1996 Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates certain international trade in plant and animal species. Export of plants and animals listed in CITES Appendix II may occur only if the Scientific Authority has advised the permit-issuing Management Authority that such export will not be detrimental to the survival of the species and if the Management Authority is satisfied that the plant or animal specimens to be exported were not obtained in violation of laws for their protection. Export of cultivated specimens of plants listed in Appendix II may occur under certificates issued by the Management Authority if it is satisfied that the plants to be exported were artificially propagated.

This document announces proposed findings on export of American ginseng *(Panax quinquefolius)* from the 1994–1996 harvest seasons in 22 States. The U.S. Fish and Wildlife Service (Service) reviews information and data on the topics described in this proposed rule as a basis for determining whether to continue approval of export from specified States for the 1994–96 harvest seasons or to initiate changes. For Iowa and Wisconsin, approval is only for 1994. In addition, the State of North Dakota has applied to export cultivated ginseng under a State program, the State of Maine has submitted legislation which has been signed to set up a State program for the export of cultivated ginseng and is working to finalize the details of the program and to apply for export approval; and the State of Michigan has submitted draft legislation and is intending to complete its application to export cultivated ginseng under a State program soon. The Service proposes to approve only exports of cultivated ginseng from those three States, contingent on submission of adequate final State information.

Monitoring State ginseng programs for 16 years has shown that the States from which ginseng export has been approved are likely to continue to satisfy CITES requirements. To ensure that this is so, the Service plans to continue its monitoring in accordance with the procedures described herein, which have been somewhat streamlined and clarified. This monitoring includes analysis of program reports made available to the Service no later than May 31 each year from each State from which ginseng export is approved. These annual reports document the most recent previous harvest and the current status of the State's program for ginseng.

The requirement that *all* ginseng be inspected and certified by State officials is being modified to require that *all wild* ginseng be inspected and certified by State officials. Cultivated ginseng may be certified by licensed or registered dealers approved by the State to make such an accounting. This change is being considered since: (1) The origin of the roots is declared as to whether the plant was cultivated or taken from the wild; and (2) the marked difference in appearance and price between wild and cultivated ginseng make it reasonably unlikely that wild ginseng would be sold as cultivated ginseng.

DATES: The Service will consider all information and comments received by October 26, 1994, in making its final decision on this proposal. State ginseng program reports are due by May 31 of 1995, 1996, and 1997.

ADDRESSES: Please send correspondence concerning this document to Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 1849 C Street, N.W. (MS–ARLSQ–420C), Washington, DC 20240. Express and messenger deliveries should be addressed to Chief, Office of Management Authority, Room 430, 4401 North Fairfax Drive, Arlington, Virginia 22203. Materials received will be available for public inspection by appointment from 7:45 am to 4:15 pm, Monday through Friday, at the Office of Management Authority at the Arlington address.

FOR FURTHER INFORMATION CONTACT:

Management Authority: Marshall P Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 1849 C Street, N.W. (MS–ARLSQ–420C), Washington, DC 20240; fax number 703–358–2280, telephone 703–358–2095.

Scientific Authority: Dr. Charles W Dane, Chief, Office of Scientific Authority (MS-ARLSQ–725), U.S. Fish and Wildlife Service, Washington, DC 20240; fax number 703–358–2276, telephone 703–358–1708.

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates certain international trade in CITES-listed species. Export of specimens of species listed in Appendix II of the treaty may only occur upon approval of a Scientific Authority and a Management Authority of the country of export. In the United States, the Scientific Authority and Management Authority responsibilities are assigned to the Secretary of the Interior and are carried out by offices of the U.S. Fish and Wildlife Service.

CITES provides for listing of whole plants and specifically designated parts and derivatives of Appendix II plants. Since 1973, whole plants and roots of American ginseng *(Panax quinquefolius)* have been so listed. In 1985, for reasons unrelated to the trade in American ginseng, the CITES Parties (member countries) revised listing practices and decided to regulate not only whole specimens of plants on Appendix II, but also all their readily recognizable parts and derivatives, unless they were specifically excluded. As a consequence, the listing for ginseng needed restatement, and the listing proposal adopted by the Parties (November 22, 1985, 50 FR 48212) continues to regulate ginseng exports, including plants, whole roots, essentially intact roots, and root chunks and slices [50 CFR 23.23(d)(3)].

The Service may issue findings yearly or for more than one year. It began making multiyear findings for the export of American ginseng on a State-by-State basis with issuance of the Scientific Authority and Management Authority findings to cover the 1982–84 harvest seasons. On October 4, 1982 (47 FR 43701), the Service reported that it found that the status of wild ginseng did not appear to vary greatly from one year to the next within any given State, and that the existing information compiled was adequate to justify findings under CITES for 3 years. The initial multiyear

rule was followed by a second such rule for the 1985–87 harvest seasons (50 FR 39691, September 30, 1985; 50 FR 42027, October 17, 1985), and subsequent rules for the 1988–90 seasons (53 FR 33815, September 1, 1988) and the 1991–93 seasons (56 FR 41806, August 23, 1991).

The Service uses information compiled since 1977 to make the multiyear findings. This notice concerns the Service's proposed findings to approve the export of American ginseng to be collected in certain States in the 1994–96 harvest seasons. The Service plans to continue to review current biological and harvest information concerning ginseng and those State programs approved for exporting of their ginseng. The State information previously submitted need not be resubmitted if it is incorporated by reference and its validity reaffirmed. The Service is retaining the option to revise 3-year findings whenever warranted by information that shows the need for change. The procedures herein have been somewhat streamlined and clarified, and the Service would welcome comments concerning further simplification of these procedures.

Scientific Authority Criteria

The overall criteria used by the Scientific Authority in finding whether export will not be detrimental to the survival of a species are generally as follows (summarized from a notice of July 11, 1977; 42 FR 35800):

1. Whether such export has occurred in the past and has appreciably reduced numbers or distribution of the species;

2. Whether such export has or is expected to increase, remain constant, or decrease; and

3. Whether the life-history parameters of the species and relevant structure and function in its ecosystems indicate that the present or proposed levels of export, considered with the potential impacts of other factors, are expected to appreciably reduce the numbers or distribution of the species, or cause signs of appreciable ecological stress within the species and/or in other species within its ecosystems.

For ginseng, the evaluation for nondetriment by the Scientific Authority, in accordance with these general criteria, is based on the information and data submitted on the following topics by each affected State and from other appropriate sources. Information previously submitted that remains valid need only be referenced.

The following information and data for wild ginseng can be conveniently recorded by natural region(s) of the State or by county, preferably on a State map, or in a table of the counties. Ginseng is to be considered wild if it occurs in naturally perpetuated habitat where the species is naturally propagated or with only limited planting of seeds and with no subsequent tending of plants or habitat before harvest.

1. Historic distribution of ginseng, with indication of optimal habitat.

2. Location and approximate acreage of statute-protected lands in the State on which wild ginseng occurs and where collecting is prohibited.

3. Present abundance of ginseng, using the indices of 0 = absent, 1 = rare, 2 = occasional, 3 = frequent.

4. Density within the ginseng populations for each natural region (or county) where present, using the indices of 1 = sparse, 2 = moderate, 3 = dense.

5. Harvest collecting intensity, using the indices of 0 = none, 1 = light, 2 = moderate, 3 = heavy.

6. Preferably by natural regions of the State (or by county) rather than statewide, the average number of roots per pound (dry weight) as purchased by dealers.

7. Information on trends in wild ginseng populations for the State or, if possible, natural regions of the State, indicating whether populations are apparently increasing, stable, decreasing, or being extirpated.

In addition for the wild ginseng, the following information and data can be provided in narrative form:

1. Approximate number of ginseng collectors (diggers) in the State and whether the number appears to be increasing, stable, or decreasing.

2. A description (or copy) of the State's regulations for the annual harvest of wild ginseng, including (a) designated harvest season—preferably to begin after seeds are mature; and (b) harvest requirements, such as (i) minimum size or age of plants allowed to be collected—at least 3-leaf (3-prong) is recommended, and (ii) whether seeds from collected plants are to be planted and only at the harvest sites, etc.

3. Number of pounds (dry weight) of ginseng roots certified by the State for export.

4. Information on trends in roots per pound (dry weight) for the State or, if possible, natural regions of the State, indicating whether the number of roots per pound appears to be increasing, stable, or decreasing.

5. A brief description of any research projects related to ginseng's status that the State has initiated or that are ongoing in the State.

6. The State's opinion, based on the information and data provided on the topics above and any other information and data that the State may provide, as to whether the removal of the ginseng from the wild in the State might have been adverse for the State's entire population of the species.

For cultivated ginseng, the following information and data can be provided in map, tabular, or narrative form. Ginseng is considered cultivated when it is artificially propagated and maintained under controlled conditions, for example in intensively or intermittently prepared or managed gardens or patches under artificial or natural shade.

1. Counties in which ginseng is commercially cultivated.

2. The number of pounds (dry weight) of cultivated ginseng roots certified by the State for export.

Management Authority Criteria

In addition to the Scientific Authority finding that ginseng exports will not be detrimental to the survival of the species, the Management Authority must be satisfied (1) that the ginseng was not obtained in contravention of laws for its protection, and (2) as to whether it was of wild or cultivated origin.

Criteria used by the Management Authority in determining a State program's qualifications for export are that the State has adopted and is implementing the following regulatory measures (see 50 FR 39691, September 30, 1985):

1. A State ginseng law and regulations mandating State licensing or registration of persons purchasing or selling ginseng collected or grown in that State.

2. State requirements that these licensed or registered ginseng dealers maintain true and complete records of their commerce in the annually harvested ginseng and provide copies of such records to the State in a signed and dated statement at least every 90 days (within 15 days of end of each quarter of calendar year) and a year-end accounting of the total commerce for the year.

3. Dealer records required to show date of transaction, whether roots and plants were wild or cultivated, if roots were dried or fresh (green) at time of transaction, weight of roots, weight or number of plants, State of origin of roots or plants, and identification numbers of the State certificates used to ship ginseng from the State of origin. The name and address of the seller or buyer of record of the ginseng shall be maintained by the dealer on his/her own copy of commerce record forms supplied by the State(s) of licensing and shall be made available to the State ginseng-program manager(s) upon request.

4. Inspection and certification by State personnel of all wild ginseng harvested in the State to authenticate that ginseng was legally obtained from wild sources within the State. Cultivated ginseng harvested in the State may be certified by licensed or registered dealers approved by the State to make such an accounting of this ginseng.

Experience has shown the value of an inspection and certification program by State official(s) who can document both the weight of the ginseng roots (weight or number of plants) involved and that they were legally taken from the wild or cultivated in that State. Dealer certification for cultivated ginseng is being considered because the declared origin of the root is indicative of whether it is wild or cultivated and the marked difference in appearance and price between wild and cultivated ginseng makes it reasonably unlikely that wild ginseng would be certified by a State-approved dealer as cultivated. Cultivated ginseng may be recorded by such a dealer and exported with appropriate CITES export documents without further certification by State officials.

5. Ginseng unsold by March 31 of the year after harvest must be weighed by the State, and the dealer, digger, or root owner given a State weight receipt. Future State export certification of this stock for export is to be issued against the State weight receipt.

6. Certificate of origin forms for wild ginseng must remain in State control until issued at certification. The certificate of origin forms for all ginseng must contain the following information:

(a) State of origin;
(b) Serial number of certificate;
(c) Dealer's State registration number;
(d) Dealer's shipment number for that harvest season;
(e) Year of harvest of ginseng being certified;
(f) Designation as wild or cultivated roots or plants;
(g) Designation as dried or fresh (green) roots, or live plants;
(h) Weight of roots or plants (or number of plants) separately expressed both numerically and in writing;
(i) Verified statement by State ginseng official that the ginseng was obtained in that State in accordance with the State law of that harvest year;
(j) Name and title of State certifying official;
(k) Date of certification;
(l) Signatures of both the dealer and the State official making certification.

This certificate should be issued in triplicate, with the original designated for the dealer's use in commerce, first copy for dealer records, and second copy retained by the State for reference.

7. State regulations that (a) prohibit export from the State of its ginseng without certification by the State of origin, and (b) require uncertified ginseng supplied to State-registered dealers to be returned to the State of origin within 30 calendar days for certification. Failure to have such ginseng certified will render those roots illegal for commerce under State law.

Each State from which ginseng export is approved shall, without further notice, make program information on each year's harvest available to the Service's Office of Management Authority no later than May 31 of the subsequent year (*e.g.*, the State's 1994 ginseng data should be received by May 31, 1995). These data should be sufficient to satisfy the Scientific Authority criteria indicated above. The following information is needed to satisfy the Management Authority criteria:

1. Reaffirm the State ginseng program and indicate modifications, if any, concerning:

(a) State ginseng laws and regulations;
(b) Season of ginseng harvest and commerce;
(c) State dealer, digger, and/or grower license or registration rules;
(d) Sample of required ginseng-related licenses, including dates of authorized use;
(e) Fees for any ginseng-related license or registration;
(f) Dealer, digger, or grower record maintenance and reporting requirements;
(g) Sample of current-year dealer certificates and reporting forms;
(h) Description of State certification system for wild and cultivated ginseng legally harvested within the State, including controls to deter uncertified ginseng from moving out of or into the State;
(i) Name, address, telephone number, and fax number of State official to contact concerning such information.

2. The State data should also include information on the following:

(a) Pounds (dry weight) of wild and of cultivated ginseng roots and weight or number of live plants (i) harvested and (ii) certified by the State, and (iii) the pounds of each bought and sold from in-State and from out-of-State sources;
(b) How dealers not resident in the State obtain certification for ginseng roots harvested in that State and how this type of commerce is controlled by State law;
(c) Ginseng law enforcement procedures, violations discovered, and remedies; and
(d) A sample of the current-year State certificate of legal take and origin.

Program for Cultivated Ginseng

On October 21, 1980 (45 FR 68944), the Service announced that it would approve export of cultivated ginseng only from States for which the export of wild-collected ginseng was approved because those States had programs that could adequately document the source of the ginseng. On October 4, 1982 (47 FR 43701), the Service announced that it would approve export of cultivated ginseng from other States if procedures had been implemented to minimize the risk that wild-collected plants would be claimed as cultivated. The Service continues to consider granting such approval.

The State of North Dakota has applied to export cultivated ginseng, and the Service is proposing to approve such exports from this State. North Dakota is considered outside the native range of ginseng. The State of Michigan (which is within the native range of the species) was granted interim approval to export cultivated ginseng from the 1993 harvest. The State has been working with the Service to finalize procedures under a new State law and is planning on completing their submission requesting approval of their ginseng program prior to the publication of the final rule. The Service is considering the approval of such exports from this State. The Service's proposal to approve Michigan's program is dependent upon receiving the required information. The State of Maine (which is within the native range of the species) has passed legislation setting up a State program for cultivated ginseng and is working to complete their submission for export approval for cultivated ginseng only. The Service is considering the approval of such exports pending satisfactory completion of the application for export approval.

Previous Export Approval

On August 23, 1991 (56 FR 41806), the Service approved multiyear export of 1991–93 harvested ginseng only from States with a legally regulated ginseng program that provided for a State certification and inspection system and that satisfied the other criteria of the Management Authority and the Scientific Authority. The export of wild and cultivated ginseng harvested from 1991 through 1993 was approved only from the 19 States indicated in the Code of Federal Regulations [50 CFR 23.51(e)(1)]—see the 1991–1993 column

in the table at the end of this document. Documents containing information that provided the basis for the Service's findings of legal take and origin are on file at the Office of Management Authority at the address given above.

Such export approval means that any ginseng legally harvested during those years from Service-approved State programs may be exported at any time when accompanied by appropriate State certification and valid Federal export documents granted by the U.S. Management Authority. For example, ginseng legally harvested in 1992 under a Service-approved State program may be exported in 1994 when accompanied by the 1992 State certificate of origin, a 1994 export document issued by the Management Authority, and an exporter's invoice.

Multiyear Findings

As a result of monitoring State ginseng programs and the status of ginseng since 1977, the Service expects that States from which the export of ginseng has been approved will continue to satisfy CITES requirements and that continued export of ginseng from these States will not be detrimental to the survival of the species. Therefore, States previously approved for export of ginseng for the 1991–93 harvest seasons need not submit completely new applications for export program approval for the 1994–96 harvest seasons. However, in relation to both the set of criteria used by the Scientific Authority and the set used by the Management Authority, each State needs to reaffirm the validity of its existing program and to notify the Service of any modifications or changes.

This report with information on the 1993 harvest, reaffirmation of the ongoing State program, and any new program information should have been received by May 31, 1994, from all States from which ginseng export has been approved for the 1991–93 harvest years (see 56 FR 41806; August 23, 1991). The States of Iowa and Wisconsin have been notified of the Service's concerns over the lack of State certification for wild ginseng. Therefore, the Service is proposing to approve export of wild and cultivated ginseng from these two States for 1 year only. Findings allowing further export will be made based on compliance with Service requirements. The Service is proposing to find that the status of the species and State programs is such that the 1994–96 harvests of ginseng for export will not be detrimental to the survival of the species for 17 of the 19 States approved for the 1991–93 harvest seasons. In addition, the Service is proposing the approval of exports of cultivated ginseng from Maine and Michigan, pending receipt of required information, and from North Dakota, which is outside the species' native range.

Any States wishing to initiate export programs for ginseng should begin working with the Service early so that their finalized request for approval can be submitted by March 31 of the year in which the State anticipates certifying that season's ginseng for export.

Service export approval is subject to revision prior to the 1995 and 1996 harvest seasons if a review of information reveals that Management Authority or Scientific Authority findings on any approved State may need to be changed. The Service proposes not to grant general approval for export of ginseng originating in any State not named in the 1994 codification of 50 CFR 23.51(e), for one or more of the following reasons: (1) The species does not occur there; (2) no harvest of the species is allowed by the State; or (3) the Service does not have current information needed for Management Authority and/or Scientific Authority findings.

To ensure that States for which ginseng export is approved by the Service maintain successful programs so that export is not detrimental to the survival of this species, the Service plans to annually review the export documents returned from U.S. Department of Agriculture ports and the information and data submitted by the States, including any unexplained changes in harvest levels and any other concerns presented in the State-submitted reports. Taking into account the State evaluations, the Service will continue to make an overall evaluation on the status of ginseng. Notices will be published in the **Federal Register** in 1995 and 1996 only if new information or changed conditions show reason for revised findings or guidelines.

Export Procedures

Valid Federal CITES documents are necessary to export wild or cultivated ginseng roots, major root parts, or plants. Applications for these documents should be sent to the Office of Management Authority at the address given above.

Ginseng may only be exported through ports with personnel and/or facilities of the U.S. Department of Agriculture (USDA ports) that have been designated by the U.S. Department of the Interior (49 FR 49238, October 25, 1984; see 50 CFR 24.12). For each export, the exporter must present to the port inspector of the USDA Animal and Plant Health Inspection Service, Plant Protection and Quarantine (APHIS/PPQ), the following:

1. Ginseng roots or plants being exported.

2. Original State certificates of origin for the ginseng (or foreign export documents for American ginseng imported into the United States). An exporter or dealer may split an original State certificate by striking a line through the original weight on the certificate and stating in numbers and words the new lower weight of ginseng to be exported. This change in weight must be certified by the dealer or exporter with the written words "I made these changes on (date)" followed by the full legal signature of the dealer or exporter. The modified State certificate of origin must bear this certified change in ink, in original form, and be readily legible or also given in printed style.

3. One completed Federal CITES export document (permit or certificate) with two copies.

4. One copy of the exporter's executed invoice.

The APHIS/PPQ port inspector may sign and validate the CITES documents only after a satisfactory inspection of the contents of the State certificate(s) of origin, the exporter's invoice, CITES export documentation, and the shipment. Once the CITES documents are validated, the inspector will forward the State certificates, one copy of the CITES export document, and the exporter's invoice to the Office of Management Authority for recordkeeping and reporting. The second copy of the Federal CITES export document goes to the exporter. The original CITES export document authorizes the international shipment of the ginseng and will be collected by the importing country for its recordkeeping and reporting.

Request for Information and Comments

The Service requests information and comments on (1) the status of ginseng throughout its range or in any portion of its range; (2) the proposed findings that the export of ginseng from any of the 22 States with programs to be approved will not be detrimental to the survival of the species; and (3) the status criteria used. Information and comments also are requested on the criteria and procedures and their implementation for determining (1) that exported specimens are accurately declared as wild or cultivated; (2) that the ginseng (roots) originated in a particular State; and (3) that the ginseng is not collected in contravention of laws for its protection.

The Service also requests information on environmental or economic impacts

and effects on small entities (including small businesses, small organizations, and small governmental jurisdictions) that would result from findings for or against export approval. This information may aid the Service in further evaluating the conclusions stated below. This proposed rule is issued under authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884, as amended), and was prepared by Mark R. Albert and Carol L. Carson, Office of Management Authority, and Charles W. Dane, Bruce MacBryde, and Wayne L. Milstead, Office of Scientific Authority.

Effects of the Rule and Required Determinations

The Service has determined that these proposed findings are not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321–4347), and therefore the preparation of an Environmental Impact Statement is not required.

This rule was not subject to Office of Management and Budget review under Executive Order 12866. For the 1994–96 harvest seasons, the Service analyzed the impacts and again concluded that the 3-year rule will not have significant economic effects on a substantial number of small entities as outlined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Exporters normally derive their product from ginseng roots harvested in a number of States. Therefore, the approval or disapproval of wild ginseng export from any one State would not significantly affect the industry. Moreover, because the proposed rule would treat exports on a State-by-State basis and proposes to approve export in accordance with State programs, the rule would have little effect on small entities in and of itself. The proposed rule would allow continued international trade in ginseng from the United States in accordance with CITES, and it does not contain any Federalism impacts as described in Executive Order 12612.

It also has been determined that this proposed rule does not contain information collection requirements that require approval by OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Plants (agriculture), Transportation, Treaties.

Proposed Regulation Promulgation

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, Part 23, Subpart F of Title 50 (Chapter I, Subchapter B) of the Code of Federal Regulations is proposed for amendment as set forth below:

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 108; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Subpart F—Export of Certain Species

§ 23.51 [Amended]

2. In § 23.51, paragraph (e)(1) is proposed to be revised as follows:

§ 23.51 American ginseng *(Panax quinquefolius)*

* * * * *

(e)(1) 1982–1996 harvests:

State	Harvest year					
	1982 & 1983	1984	1985–1987	1988–1990	1991–1993	1994–1996
Alabama	–	–	–	+	+	+
Arkansas	+	+	+	+	+	+
Georgia	+	+	+	+	+	+
Illinois	+	+	+	+	+	+
Indiana	+	+	+	+	+	+
Iowa	+	+	+	+	+	*
Kentucky	+	+	+	+	+	+
Maine	–	–	–	–	–	c
Maryland	+	+	+	+	+	+
Michigan	–	–	–	–	–	c
Minnesota	+	+	+	+	+	+
Missouri	+	+	+	+	+	+
New York	–	–	–	+	+	+
North Carolina	+	+	+	+	+	+
North Dakota	–	–	–	–	–	c
Ohio	+	+	+	+	+	+
Pennsylvania	–	–	–	+	+	+
Tennessee	+	c	+	+	+	+
Vermont	c	+	+	+	+	+
Virginia	+	+	+	+	+	+
West Virginia	+	+	+	+	+	+
Wisconsin	+	+	+	+	+	*

+ Export approved for wild and cultivated ginseng roots and plants.
c Export approved only for cultivated (artificially propagated) ginseng.
– Export either not requested or not approved.
* Export approved for 1994 only.

3. With the exception of the Note, § 23.51(e)(2) is proposed to be revised as follows:

§ 23.51 American ginseng *(Panax quinquefolius).*

* * * * *

(e)(2) Conditions on export: All roots and plants must be documented as to State of origin, season of collection, and dry or fresh (green) weight. The State must certify, or for cultivated ginseng authorize certification, whether roots and plants originated in that State, were legally obtained in a particular season, and are wild or cultivated (artificially propagated) specimens. Along with the ginseng to be exported, the following must be presented: a dealer's or exporter's executed invoice, the State certification, and a current CITES export document. The State must maintain a ginseng program as described in the

current final rule. Annual program data for the preceding harvest season should be available to the Service's Office of Management Authority by May 31 each year. All other export procedures must be followed as described in 50 CFR parts 13, 14, and 23.

* * * * *

Dated: August 18, 1994

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 94–23739 Filed 9–23–94; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 940958–4258; I.D. 081894A]

RIN: 0648–AG92

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to delay the opening of the first (roe) directed fishing season for the offshore component pollock fishery in the Bering Sea and Aleutian Islands (BSAI) management area from January 1 to January 26 of each fishing year. This action is necessary to achieve optimum roe quality and increase revenues from the BSAI pollock processed by the offshore component during the roe season. The proposed action also would prohibit vessels used to fish for BSAI or Gulf of Alaska (GOA) groundfish or BSAI king or Tanner crab prior to January 26 from participating in the offshore component pollock fishery until February 5. This 10-day prohibition on entry into the offshore component fishery would not apply to vessels used to participate in the Community Development Quota (CDQ) program prior to January 26 and is necessary to discourage participants in the offshore component pollock fishery from contributing to increased fishing effort in other fisheries prior to the start of the offshore component roe season. This action is intended to promote the fishery management objectives of the Fishery Management Plan (FMP) for the Groundfish Fishery of the BSAI.

DATES: Comments must be received by October 26, 1994.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) may be obtained from the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by vessels in the exclusive economic zone of the BSAI is managed by the Secretary of Commerce (Secretary) according to the FMP for the Groundfish Fishery of the BSAI. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 620 and 675.

Current regulations authorize all BSAI trawl fisheries, including the pollock fisheries, to start on January 20 of each year. Existing regulations at § 675.20(a)(2)(ii) also authorize the establishment of separate pollock total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands subareas and the Bogoslof District.

Through 1995, the pollock TACs specified for each subarea and district initially are allocated among the Western Alaska CDQ reserve (7.5 percent), the BSAI operational reserve (7.5 percent), and the open access fisheries (85 percent, of which 35 percent is allocated to the inshore component and 65 percent to the offshore component). The portion of the TACs allocated to the inshore and offshore components is further apportioned into two seasonal allowances. The first allowance (roe season) is available for directed fishing from January 1, until April 15, and the second allowance (non-roe season) is available for directed fishing from August 15, until December 31.

The Bering Sea pollock fishery has experienced increased harvesting and processing capacity and increased effort in recent years under the existing open access management regime. While the TAC annually specified for pollock in the last few years has remained fairly stable between 1.2 and 1.3 million metric tons, the increase in harvesting and processing capacity has led to increasing daily catch rates and reduced season lengths for both the inshore and offshore components.

Three major factors affect the length of the pollock roe season: Annual TAC, the amount of pollock TAC apportioned to the pollock roe season, and amount of fishing effort. Regulations authorizing the seasonal apportionment of pollock TACs have been effective since 1991. In 1991 and 1992, 40 percent of the Bering Sea pollock initial TAC was apportioned to the roe season, and 45 percent was apportioned in 1993 and 1994. Since 1991, the length of the Bering Sea pollock roe season has decreased each year. The roe season pollock quota was harvested in 52 days in 1991 and 46 days in 1992. Effective June 1, 1992, through December 31, 1995, pollock TACs are apportioned among the offshore component, inshore component, and CDQ pollock fisheries. The 1993 roe season allowance apportioned to the offshore component was harvested in 33 days. The inshore component roe fishery lasted 63 days from January 20, through March 24. However, a strike by vessels delivering onshore delayed fishing until the first week of February. The inshore component's roe season pollock apportionment was harvested in about 48 days. In 1994, the offshore component roe season closed on February 18 (29 days), and the inshore component roe season closed on March 2 (41 days).

Pollock roe produced from the roe season harvests represents a substantial portion of the gross wholesale value of the pollock fishery and roe maturity is one of the most important factors in determining product value. Good quality mature roe receives the highest price, followed by immature and over-mature roe. Therefore, in order to maximize the value of roe production, industry prefers to harvest as much roe as possible during the period of peak roe maturity and to minimize the harvest of immature and over-mature roe. Although the timing of peak roe maturity varies depending on the age of the fish, the location where fish spawn, and ocean conditions, industry sources report that the period of peak roe maturity usually occurs between February 10 and February 20.

The pollock roe season length has shortened to the degree that some offshore processors participating in the open access fishery believe that the fishery closes before or during the timing of peak roe maturity. Consequently, the value of the pollock harvest is significantly lower than it could be if the season were delayed.

This trend likely will continue under the open access management system.

Concerns about a shortened roe season do not appear to be shared by participants in the inshore component pollock fishery or some of the offshore processors who also participate in the CDQ pollock fisheries, which occur after the close of the open access fishery. Inshore processors report that peak roe maturity generally occurs during the first 2 weeks of February and, because the 1994 roe season extended into early March, the fishery fully encompassed the period of peak roe maturity. Delay of the inshore component roe season would likely increase the harvest of pollock with lower valued, over-mature roe.

At the request of offshore component processors, the Council first considered alternatives for delaying the pollock roe season at its June 1993 meeting. Lack of industry consensus on a preferred alternative prevented the Council from taking action. The continued shortening of the roe season in 1994 prompted the Council again to consider alternative season opening dates for the pollock roe season.

At its June 1994 meeting, the Council considered the testimony and recommendations of its Advisory Panel, Scientific and Statistical Committee, fishing industry representatives, and the public on alternative dates for the start of the pollock roe season. For the reasons given below, the Council determined that delaying the offshore component roe season opening date to January 26 would provide the most benefit to the fishing industry and recommended that NMFS initiate rulemaking to delay the opening of the offshore component pollock roe season until this date.

To discourage a shift in fishing effort into other fisheries by pollock vessels prior to January 26, the Council also recommended that vessels used to fish for BSAI or GOA groundfish or BSAI king or Tanner crab prior to January 26 be prohibited from participating in the offshore component pollock fishery until February 5. This prohibition would not apply to vessels participating in a CDQ fishery.

Section 14.3 of the FMP requires that the Council consider the following criteria when recommending a regulatory amendment to change season opening dates: Biological, bycatch, exvessel and wholesale prices, product quality, safety, cost, other fisheries, coordinated season timing, enforcement and management costs, and allocation effects. The EA/RIR/IRFA prepared for this action addresses anticipated effects of the proposed delay relative to these criteria. The following discussion summarizes these effects relative to how the Council's objectives for an offshore component roe season delay are met under the proposed action.

Biological or bycatch effects. A delay of the roe season opening date for the offshore component pollock fishery to January 26 would affect neither the amount of pollock harvested during the roe season nor the overall duration of the fishery. Although the proposed action would result in a 6-day shift of trawl effort, significant spatial differences in trawl effort distribution would not be expected because the location of spawning stocks of pollock likely would not vary significantly during this 6-day period. Similarly, a 6-day delay in the opening date of the pollock roe season would not affect the size of pollock taken in this fishery. When female pollock are entering a spawning condition, their energy is going into the production of eggs and maintenance, and not into growth.

In the BSAI, Pacific halibut, red king crab, C. bairdi Tanner crab, and herring are prohibited species for which bycatch limits are established and apportioned each year to the pollock and other groundfish trawl fisheries based on Council recommendations. Pacific salmon also are prohibited species that may not be retained in the groundfish fisheries; however, no salmon bycatch limits currently are established. Few data exist to suggest that the proposed change in the pollock roe season would have any positive or negative impact on the prohibited species bycatch amounts. Observer data indicate that an opening date later into the season could help to reduce chinook salmon bycatch in the trawl fisheries. However, the effects of a change of less than 1 week for a start date are difficult to measure.

The proposed action would not have an adverse effect on marine mammals or seabirds, because it would not increase pollock harvests or significantly change the temporal or spatial distribution of this harvest.

Product quality and value. The proposed delay of the offshore component pollock roe season is intended to increase the value of the pollock harvested during the roe season by delaying the offshore component fishery so the season fully encompasses the period of optimum roe maturity. This action likely would affect the roe product quality and value experienced in the CDQ pollock fisheries.

Participants in the CDQ pollock fisheries include the Western Alaska community groups that have been allocated pollock quota and the processors with which they contract for the harvest and processing of the quota. In 1993 and 1994, the roe season CDQ pollock fisheries occurred immediately after the close of the open access roe season, when the proportion of mature roe produced was still quite high. Under the proposed action, CDQ harvests likely would occur between January 20 and January 26 and after the offshore component fishery closed. In either case, if the offshore component roe season delay achieves the primary objective of allowing this fishery to be prosecuted when pollock roe maturity is optimum, the overall gross wholesale value of the pollock CDQ fishery would be reduced. However, based on the volume of pollock harvested and the number of participants in the fisheries, an increase in the value of roe production during the offshore component fishery (due to increased roe quality) probably would be greater than the decrease in the value of roe production in the CDQ fisheries.

Allocation, coordinated season timing, and impacts on other fisheries. The proposed action is intended to discourage vessels participating in the offshore component pollock fishery from contributing to increased fishing effort in other fisheries prior to the start of the offshore component roe season on January 26. Under the proposed action, vessels used to participate in a BSAI groundfish fishery, a GOA groundfish fishery, or the BSAI king or Tanner crab fishery would be prevented from entering the offshore component pollock fishery until February 5—10 days after the opening of the offshore component roe season. The intent of this action is to encourage vessel owners to choose between fishing for pollock or for another species, thus minimizing any preemptive impacts on other fisheries that may otherwise occur under the proposed delay of the pollock roe season.

Costs. Vessels used to participate in a BSAI or GOA groundfish fishery or the BSAI king or Tanner crab fisheries prior to January 26 would be prohibited from participating in the offshore pollock fishery before February 5. This limitation could impose costs on those vessels that target on more than one species during the pollock roe season. These vessels would be precluded from participating in other fisheries prior to the roe season if they also wanted to continue their pollock target fisheries.

If approved by NMFS, the Council's recommended action to delay the offshore component pollock roe season would be effective only through December 31, 1995, when regulations authorizing the allocation of pollock between the inshore and offshore

component expire. Continued effectiveness of the proposed delay would require new rulemaking contingent on the implementation of a separate FMP amendment that would authorize inshore/offshore groundfish allocations beyond 1995.

Classification

NMFS prepared an IRFA as part of the RIR, which concludes that this proposed rule, if adopted, could have significant effects on a substantial number of small entities (i.e., small businesses, small organizations, and small governmental jurisdictions with limited resources). The Western Alaska community groups that have received CDQs in the pollock fishery are considered small entities, because they are government jurisdictions with populations less than 50,000. The proposed action would delay the start date of the offshore pollock roe season in the BSAI in order to increase the wholesale value of roe production in the open access fishery. If this action is successful in its purpose, the value of roe production in the CDQ pollock fisheries would probably decline, thereby reducing revenue to the Western Alaska community groups. The reduction in revenue generated from the CDQ program could have a "significant impact" on these small entities by reducing their annual gross revenues by more than 5 percent.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: September 20, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, part 675 is proposed to be amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 675.23, paragraph (e) is revised to read as follows:

§ 675.23 Seasons.

* * * * *

(e) *Directed fishing for pollock.* (i) Subject to other provisions of this part, and except as provided in paragraph (e)(ii) of this section, directed fishing for pollock is authorized from January 1, until noon, A.l.t., April 15, and from noon, A.l.t., August 15, through the end of the fishing year.

(ii) *Applicable through December 31, 1995.* (A) Subject to other provisions of this part and except as provided in paragraph (e)(ii)(B) of this section, directed fishing for pollock by the offshore component, defined at § 675.2 of this part, or by vessels delivering pollock to the offshore component, is authorized from noon, A.l.t., January 26, until noon, A.l.t., April 15 and from noon, A.l.t., August 15, through the end of the fishing year. Directed fishing for pollock under the Western Alaska Community Development Quota Program pursuant to § 675.27 is authorized from January 1, through the end of the fishing year.

(B) Directed fishing for pollock by the offshore component or vessels delivering pollock to the offshore component is prohibited until noon, A.l.t., February 5, for those vessels that are used to fish prior to noon, A.l.t., January 26, for groundfish in the Bering Sea and Aleutians management area, groundfish in the Gulf of Alaska, as defined at § 672.2 of this chapter, or king or Tanner crab in the Bering Sea and Aleutians Area, as defined at § 671.2 of this chapter.

* * * * *

[FR Doc. 94–23754 Filed 9–23–94; 8:45 am]
BILLING CODE 3510–22–W

Notices

Federal Register
Vol 59, No 185
Monday, September 26, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARMS CONTROL AND DISARMAMENT AGENCY

Announcement of the Hubert H. Humphrey Fellowship Competition for the 1995–96 School Year

The United States Arms Control and Disarmament Agency will conduct a competition in 1995 for one-year Hubert H. Humphrey Fellowships in support of unclassified doctoral dissertation research in arms control, nonproliferation and disarmament studies. Law candidates for the Juris Doctor or any higher degree are also eligible if they are writing a substantial paper in partial fulfillment of degree requirements. The fellowship stipends for the Ph.D. candidates will be $5,000 plus applicable tuition and fees up to a maximum of $3,400. Stipends and tuition for law candidates will be prorated according to the credits given for the research paper. Fellows must be citizens of the United States and degree candidates at a U.S. college or university. The application deadline for the awards is March 15, 1995. Candidates are asked to submit an application, a five-page thesis abstract with bibliography, three letters of reference, transcripts of all graduate course work, and proof of the acceptance of dissertation proposal. Awards will be for a twelve month period beginning in September 1995 or January 1996. For information and application materials please write: Hubert H. Humphrey Doctoral Fellowship Program, Office of Operations Analysis and Information Management, U.S. Arms Control and Disarmament Agency, 320 21st Street, NW., Washington, DC 20451 or call on (703) 302–7714.

Dated: September 20, 1994

Alfred Lieberman,

Chief of Operations Analysis and Information Management.

[FR Doc. 94–23666 Filed 9–23–94; 8:45 am]

BILLING CODE 6820–32–M

Announcement of the William C. Foster Fellows Visiting Scholars Program for the 1995–96 School Year

The U.S. Arms Control and Disarmament Agency (ACDA) will conduct a competition for selection of visiting scholars to participate in ACDA's activities during the 1995–96 academic year.

Section 28 of the Arms Control and Disarmament Act (22 U.S.C. 2568) provides that "A program for visiting scholars in the field of arms control, nonproliferation, and disarmament shall be established by the Director in order to obtain the services of scholars from the faculties of recognized institutions of higher learning." The law states that "The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the arms control, nonproliferation, and disarmament activities of the Agency and to gain for the Agency the perspective and expertise such persons can offer * * *. Fellows shall be chosen by a board consisting of the Director, who shall be the chairperson, and all former Directors of the Agency." Scholars are known as William C. Foster Fellows, in honor of the first Director of ACDA, William C. Foster, who served from the inception of ACDA in 1961 until 1969.

ACDA began this program by competitively selecting six visiting scholars for the 1984–85 academic year. The competition has continued each subsequent academic year until the present. One-year assignments will begin at a mutually agreeable time after successful completion of all employment requirements.

Positions are available in the Bureau of Strategic and Eurasian Affairs (SEA), the Bureau of Multilateral Affairs (MA), the Bureau of Intelligence, Verification and Information Support (IVI), and the Bureau of Nonproliferation Policy and Regional Arms Control (NP). A brochure is available describing these positions in detail. Evaluation of applicants for appointments to these positions will focus upon the scholar's potential for providing expertise or performing services needed by ACDA, rather than on the scholar's previously displayed interest in arms control. While pursuit of the scholar's own line of research may sometimes be possible, support of such activity is not the purpose of the program.

Visiting scholars will be detailed to ACDA by their universities; the universities will be compensated for the scholar's salary and benefits in accordance with the Intergovernmental Personnel Act and within Agency limitations. Visiting scholars will also receive reimbursement for travel to and from the Washington, D.C. area for their one-year assignment and either a per diem allowance during the one-year assignment or relocation costs.

Visiting scholars must be citizens of the United States, on the faculty of a recognized institution of higher learning, and tenured or on a tenure track or equivalent; they also must have served as a permanent career employee of the institution for at least ninety days before selection for the program. ACDA is an equal opportunity employer. Selections will be made without regard to race, color, religion, sex, national origin, age, or physical handicap that does not interfere with performance of duties. Prior to appointment applicants will be subject to a full-field background security investigation for a Top Secret security clearance, as required by Section 45 of the Arms Control and Disarmament Act. Visiting scholars will also be subject to applicable Federal conflict of interest laws and standards of conduct.

To apply, candidates are asked to submit a letter outlining their interests and qualifications, a curriculum vitae, copies of two publications, and additional supporting material such as letters of reference. The application deadline for assignments for the 1995-1996 academic year is January 31, 1995, subject to extension at ACDA's discretion. ACDA expects to announce tentative selections in the spring of 1995.

To request an information brochure, please write to: Visiting Scholars Program, Office of Operations Analysis and Information Management, Room 5726, U.S. Arms Control and Disarmament Agency, 320 21st Street,

NW, Washington, D.C. 20451 or call on (703) 302–7714.

Dated. September 20, 1994

Alfred Lieberman,

Chief of Operations Analysis and Information Management.

[FR Doc. 94–23667 Filed 9–23–94; 8:45 am]

BILLING CODE 6820–32–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 94–092–1]

Receipt of Petition for Determination of Nonregulated Status for Genetically Engineered Tomato Line

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from DNA Plant Technology Corporation seeking a determination of nonregulated status for its delayed-ripening tomato line 1345–4. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether that genetically engineered tomato line presents a plant pest risk.

DATES: Written comments must be received on or before November 25, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 94–092–1. A copy of the petition and any comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing access to that room to inspect the petition or comments are asked to call in advance of visiting at (202) 690–2817. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 436–7601.

FOR FURTHER INFORMATION CONTACT: Dr. Ved Malik, Biotechnologist, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for determination of nonregulated status must take and the information that must be included in the petition.

On August 16, 1994, APHIS received a petition from DNA Plant Technology Corporation (DNAP) of Oakland, CA, requesting a determination of nonregulated status under 7 CFR part 340 for its delayed-ripening tomato line 1345–4 and any progeny derived from hybrid crosses between that line and other non-transformed tomato varieties. The DNAP petition states that delayed-ripening tomato line 1345–4 should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, the delayed-ripening tomato line 1345–4 was developed using Transwitch™ gene suppression technology to introduce a truncated version of an aminocyclopropane carboxylate (ACC) synthase gene isolated from tomato into the tomato genome in the "sense" (i.e. normal) orientation, which resulted in tomato plants that exhibit significantly reduced levels of ACC synthase and ethylene biosynthesis. Ethylene is an endogenous plant hormone known to play an important role in fruit ripening in climacteric fruit such as tomato. ACC synthase is the rate-limiting enzyme that converts s-adenosylmethionine to 1-aminocyclopropane-1-carbolic acid, the immediate precursor to ethylene. Inhibition of ACC synthase biosynthesis results in reduced levels of ethylene biosynthesis. The fruit of these plants exhibited a delayed-ripening phenotype, but ripened normally when external ethylene was applied. The tomato line for which DNAP is seeking a determination, line 1345–4, contains a gene that is derived from the tomato ACC synthase gene but does not encode a functional ACC synthase enzyme. Tomato plants were produced by inserting the truncated ACC synthase gene into the genome of tomato cultivar 91103–114.

DNAP's delayed-ripening tomato line 1345–4 is currently considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences (vectors, promoters, and terminators) derived from plant pathogenic sources. In the process of reviewing permit applications for field trials of DNAP's delayed-ripening tomato line 1345–4, APHIS determined that the vectors and other elements were disarmed and that the trials would not present a risk of plant pest introduction or dissemination.

In the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), "plant pest" is defined as "any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants." APHIS views this definition very broadly. The definition covers direct or indirect injury, disease or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

Food or animal feed uses of DNAP's delayed-ripening tomato line 1345–4 may be subject to regulation by the Food and Drug Administration (FDA) under the authority of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 *et seq.*). FDA's policy statement concerning regulation of plants derived from new plant varieties was published in the **Federal Register** on May 29, 1992 (57 FR 22984–23005).

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition from any interested person for a period of 60 days from the date of this notice. The petition and any comments received are available for public review, and copies of the petition may be ordered (see the **ADDRESSES** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information.

Based on the available information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of DNAP's delayed-ripening tomato line 1345–4 and the availability of APHIS' written decision.

Authority: 7 U.S.C. 150aa–150jj, 151–167, 1622n; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 21st day of September 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–23736 Filed 9–23–94; 8:45 am]

BILLING CODE 3410–34–P

Packers and Stockyards Administration

Deposting of Stockyards

Notice is hereby given, that the livestock markets named herein, originally posted on the dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under the Act and are therefore, no longer subject to the provisions of the Act.

	Facility No., name, and location of stockyard	Date of posting
AL–179	Circle J. Horse Auction, Bryant, Alabama.	Oct. 23, 1989.
KY–135	Maysville Stockyards, Inc., Maysville, Kentucky.	May 18, 1948.

This notice is in the nature of a change relieving a restriction and, thus, may be made effective in less than 30 days after publication in the **Federal Register** without prior notice or other public procedure. This notice is given pursuant to section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and is effective upon publication in the **Federal Register**.

Done at Washington, D.C. this 20th day of September 1994.

Merle E. Paulsen,

Acting Director, Livestock Marketing Division.

[FR Doc. 94–23664 Filed 9–23–94; 8:45 am]

BILLING CODE 3210–KD–P

Soil Conservation Service

Brandywine Creek Watershed; Supplemental Watershed Plan No. 6; Chester County, PA

AGENCY: USDA—Soil Conservation Service.

ACTION: "Notice of a Finding of No Significant Impact".

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Brandywine Creek Watershed, Supplemental Watershed Plan No. 6 in Chester County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Duncan, State Conservationist, Soil Conservation Service, One Credit Union Place, Suite 340, Harrisburg, Pennsylvania 17110–2993, telephone (717) 782–2202.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard N. Duncan, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The purpose of this project is to purchase 105 acres located adjacent to the Hibernia Lake Project at the Birch Run Structure (PA–436F) in order to expand the recreational facilities in the area. These facilities would include access roads, boat ramps, fishing piers, a ranger station, sanitary facilities, campgrounds, picnic tables and a maintenance and storage area. Additional land is needed to provide adequate access to the lake for fishing, boating, camping, hiking and picnicking.

The "Notice of a Finding of No Significant Impact" (FONSI) has been forwarded to the Environmental Protection Agency. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The environmental assessment and basic data may be reviewed by contacting Richard N. Duncan.

No administrative action on implementation of the proposal will be taken until thirty (30) days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: September 14, 1994.

William Hunt,

Deputy State Conservationist.

[FR Doc. 94–23690 Filed 9–23–94; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Shipper's Export Declaration.

Form Number(s): 7525V.

Agency Approval Number: 0607–0018.

Type of Request: Revision to a currently approved collection.

Burden: 571,272 hours.

Number of Respondents: 130,000.

Avg Hours Per Response: 11 minutes.

Needs and Uses: Shipper's Export Declarations (SED's) are required from exporters for all shipments valued over $2500 from the United States, Puerto Rico, and the U.S. Virgin Islands to all foreign countries except Canada; between the United States and Puerto Rico; and from the United States or Puerto Rico to the U.S. Virgin Islands. Information on the cargo, its origin and destination, and method and date of export are requested. Customs officials gather the SED forms from export carriers and transmit them to the Census Bureau. The vertical SED, Form 7525–V, is the standard form used to collect these data. SED's are the basic source of the official U.S. export statistics compiled by the Census Bureau. These statistics provide data for the merchandise trade balance, a major economic indicator and component of the gross domestic product.

Affected Public: Individuals or households, farms, businesses or other for profit institutions, Federal agencies or employees, non–profit insitutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by

calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–23771 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Shipper's Export Declaration.

Form Number(s): 7525–V–Alternate (Intermodal).

Agency Approval Number: 0607–0152.

Type of Request: Revision of a currently approved collection.

Burden: 430,960 hours.

Number of Respondents: 130,000.

Avg Hours Per Response: 11 minutes.

Needs and Uses: Shipper's Export Declarations (SED's) are required from exporters for all shipments valued over $2500 from the United States, Puerto Rico, and the U.S. Virgin Islands to all foreign countries except Canada; between the United States and Puerto Rico; and from the United States or Puerto Rico to the U.S. Virgin Islands. Information on the cargo, its origin and destination, and method and date of export are requested. Customs officials gather the SED forms from export carriers and transmit them to the Census Bureau. The vertical SED, Form 7525–V, is the standard form used to collect these data. The Census Bureau designed Form 7525–V–Alternate primarily for waterborne shipments to simplify documentation. SED's are the basic source of the official U.S. export statistics compiled by the Census Bureau. These statistics provide data for the merchandise trade balance, a major economic indicator and component of the gross domestic product.

Affected Public: Individuals or households, farms, businesses or other for-profit institutions, Federal agencies or employees, non–profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–23770 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Shipper's Export Declaration.

Form Number(s): 7513

Agency Approval Number: 0607-0001

Type of Request: Revision of a currently approved collection.

Burden: 23,817 hours.

Number of Respondents: 10,000.

Avg Hours Per Response: 11 minutes.

Needs and Uses: Shipper's Export Declarations (SED's) are required from exporters for all shipments valued over $2500 from the United States, Puerto Rico, and the U.S. Virgin Islands to all foreign countries except Canada; between the United States and Puerto Rico; and from the United States or Puerto Rico to the U.S. Virgin Islands. Information on the cargo, its origin and destination, and method and date of export are requested. Customs officials gather the SED forms from export carriers and transmit them to the Census Bureau. The vertical SED, Form 7525-V, is the standard form used to collect these data. Carriers must file Form 7513 for merchandise shipped in bond by vessel through the United States enroute from one foreign country to another without having been entered as an import (in-transit goods). SED's are the basic source of the official U.S. export statistics compiled by the Census Bureau. These statistics provide data for the merchandise trade balance, a major economic indicator and component of the gross domestic product.

Affected Public: Individuals or households, farms, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, small businesses or organizations.

Frequency: On occassion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–23769 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

[A–201–818]

Initiation of Antidumping Duty Investigation: Carbon Steel Pipe Nipples from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick or John Brinkmann, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–0186 or (202) 482–5288, respectively.

INITIATION OF INVESTIGATION:

The Petition

On August 31, 1994, we received a petition filed in proper form by the U.S. Pipe Nipples Group (petitioner). At the request of the Department of Commerce (the Department), petitioner filed a supplement to support and clarify the petition's data on September 16, 1994. In accordance with 19 CFR 353.12 (1994), petitioner alleges that carbon steel pipe nipples (pipe nipples) from Mexico are being, or are likely to be,

sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

Petitioner states that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition is filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, such party should file a written notification with the Assistant Secretary for Import Administration. Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Scope of Investigation

The products covered by this investigation are carbon steel pipe nipples, both finished and unfinished, defined as cut carbon steel pipe having a maximum length of 12 inches. Unfinished pipe nipples (nipple blanks) have not been subjected to any machining following the cutting of the pipe. Finished pipe nipples have been machined after the cutting, including, but not limited to, the following processes: reaming/deburring, chamfering, and/or threading. The type of finish on one end of a pipe nipple need not be the same as the finish on the other end. For threaded pipe nipples, threading is performed along the outside diameter to permit fastening of the pipe nipple to other components with a matching inside diameter thread.

Pipe nipples manufactured from plain (black), galvanized, welded and seamless carbon steel pipe are included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 7307.99.5015 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioner based U.S. price (USP) on F.O.B. U.S. port price lists (for November 1993 and July 1994) obtained for pipe nipples produced by a Mexican manufacturer. Petitioner calculated USP by subtracting the estimated cost of shipping expenses based on the percentage difference between customs value and C.I.F. value for pipe nipples from Mexico. Because petitioner provided home market price quotes from 1994, the Department is basing USP on the 1994 prices. We recalculated USP to include value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Act. In making our adjustment for VAT, we followed the instructions of the United States Court of International Trade (CIT) in *Federal Mogul Corp. v. United States*, 834 F.Supp. 1391 (CIT 1993). We also deducted the amount of tax due solely to price deductions in the original tax base. By making this additional tax adjustment, we avoid a distortion that could cause the creation of a dumping margin even where pre-tax dumping is zero. For discussion of this adjustment see Final Results of Administrative Review: Certain Industrial Forklifts from Japan, (59 FR 1374, January 10, 1994) and Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods from France, (58 FR 68865, December 29, 1993).

Petitioner based foreign market value (FMV) on a home market price list for identical merchandise, exclusive of VAT, obtained from a Mexican manufacturer of pipe nipples. These prices are August 1994 ex-factory prices. We recalculated FMV to include VAT. FMV was converted to U.S. dollars based on the New York Federal Reserve's quarterly exchange rate for the period July 1 through September 30, 1994.

Petitioner also supplied information on constructed value. Because petitioner was able to provide information on home market sales, and because of the regulatory preference for a home market price-to-price comparison over constructed value, we based FMV for purposes of this initiation notice on the home market price-to-price comparison (19 CFR 353.12(b)(7) and 19 CFR 353.48).

The range of alleged dumping margins of pipe nipples from Mexico, based on a home market price-to-price comparison, is from 1.71 to 92.64 percent.

Initiation of Investigation

We have examined the petition for pipe nipples from Mexico, as amended, and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of pipe nipples from Mexico are being, or are likely to be, sold in the United States at less than fair value. If this investigation proceeds normally, we will make our preliminary determination by February 7, 1995.

International Trade Commission (ITC) Notification

Section 732(d) of the Act requires us to notify the ITC of these actions and we have done so.

Preliminary Determinations by the ITC

The ITC will determine by October 17, 1994, whether there is a reasonable indication that imports of pipe nipples from Mexico are materially injuring, or threaten material injury to, a U.S. industry. Pursuant to section 733(a) of the Act, a negative ITC determination in this investigation will result in the termination of this investigation; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: September 20, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–23768 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–831]

Notice of Final Determination of Sales at Less Than Fair Value: Fresh Garlic From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Stagner, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1673.

FINAL DETERMINATION: We determine that fresh garlic from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of our affirmative preliminary determination on July 6, 1994 (59 FR 35310, July 11,

1994), no new information has been added to the case record. No interested party has filed case or rebuttal briefs or has requested a hearing.

On July 5, 1994, Global Trading Inc., an interested party in this investigation, alleged that there are methodological errors in the petition data regarding constructed value and U.S. price.

Scope of Investigation

The products covered by this investigation are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing and level of decay.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is August 1, 1993, to January 31, 1994.

Best Information Available

The Department made the following efforts to obtain information from PRC exporters in this investigation: In March 1994, we sent an abbreviated section A questionnaire to the PRC Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and cables to the U.S. Embassies in Beijing and Tokyo and the U.S. consulate in Hong Kong. In April 1994, we sent an abbreviated section A questionnaire to the China Chamber of Commerce of Imports & Exports of Foodstuffs, Native Produce, and Animal By-products (China Chamber); since no response was received, we made follow-up requests to MOFTEC, the U.S. Embassies in Beijing and Tokyo, and the U.S. consulate in Hong Kong.

On May 11 and 12, 1994, the Department received information from MOFTEC and the American Embassy in Beijing, respectively, containing the names and addresses of 40 producers/exporters of the subject merchandise in the PRC. On May 18, 1994, the Department sent 40 antidumping questionnaires to the named firms and to MOFTEC and the China Chamber. On May 31, 1994 and June 21, 1994, we sent questionnaires to two additional firms at their request.

The Department received partial questionnaire responses from only nineteen companies. Of the nineteen companies, five firms stated that they did not export the subject merchandise to the United States. Four firms submitted limited information on the PRC garlic industry. Two firms submitted limited information on their U.S. sales. Eleven firms submitted critical circumstance data, and one firm stated that it could not provide the requested information. No firm submitted factors of production information or complete U.S. sales data, and no verification was conducted. Given the lack of complete, usable questionnaire responses, we determine, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of the subject merchandise in this investigation.

In determining what to use as BIA, the Department follows a two-tiered methodology. Under this methodology, the Department normally assigns lower margins to those respondents who cooperated in an investigation and margins based on more adverse assumptions for those respondents who did not cooperate. (See Final Determination of Sales at Less Than Fair Value: Antifriction Bearings, Other than Tapered Roller Bearings, and Parts Thereof from the Federal Republic of Germany (54 FR 18992, May 3, 1994).)

In considering the application of BIA in this case, we have taken into account that, in cases involving the PRC, the Department assigns a single rate to all PRC exporters unless a company establishes that it is entitled to a separate rate. (See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China (59 FR 22585, May 2, 1994)). In this case, no company has demonstrated that it should receive a separate rate. Consequently, all of the companies must receive a single rate. Given that this single rate includes non-respondent companies, we have followed our standard practice and applied an adverse BIA rate, which is the highest margin alleged in the petition (*i.e.*, 376.67%). (See Initiation of Antidumping Duty Investigation: Fresh Garlic from the People's Republic of China (59 FR 9470, February 28, 1994).) This margin applies to all manufacturers, producers and exporters of fresh garlic in the PRC.

Global Trading, Inc. (Global Trading), a U.S. importer of the subject merchandise, challenged the Department's reliance on petitioners' data. In particular, Global Trading questioned petitioners' average yield per acre figure in the constructed value calculation, based on its own research in China. Global Trading also challenged petitioners' calculation of U.S. price as being "far from the actual" price.

The Department's practice with respect to challenges to petition data was outlined in the Administrative Review of Sales at Less Than Fair Value: Steel Wire Rope from Mexico (SWR from Mexico) (58 FR 7533, February 8, 1993), which established that the need for the Department to address petition deficiencies is limited. In that review, the Department stated that the "rights [of a non-respondent company] are strictly limited to those comments that it can support without submitting any information on its costs or prices for the record," and the company "is restricted to identifying clerical and methodological errors in the petition on the basis of public information." The Department found that to allow a company to selectively submit information when it did not submit an adequate questionnaire response would permit the company to manipulate the outcome of the proceeding. The Department determined that such actions would defeat the purpose of the BIA rule, which is to provide respondents with an incentive to cooperate fully in antidumping proceedings.

In applying the standard from SWR from Mexico to Global Trading's challenge in this case, we have determined that (1) for the average yield per acre, the information submitted by Global Trading was not public information and (2) for U.S. price, Global Trading submitted data regarding its own purchases of the subject merchandise from four PRC exporters. Thus, we have found that neither of Global Trading's specific challenges meets the standard established in SWR from Mexico and, therefore, we have not adjusted the data from the petition based on Global Trading's allegations. We note that the petitioners used standard methodologies, which have been examined by the Department.

Critical Circumstances

In our preliminary determination, we found that "critical circumstances" exist with respect to imports of fresh garlic from the PRC. Pursuant to section 733(e)(1) of the Act, we based our preliminary determination on a finding of (1) knowledge of dumping because the estimated dumping margin for all exporters of fresh garlic in the PRC was

in excess of 25 percent, and (2) massive imports over a relatively short period of time because respondents failed to respond to the Department's questionnaire. As a result, we assumed, as BIA, that imports have been massive.

For the final determination, we have continued to use BIA as the basis for our determination of critical circumstances. The BIA margin exceeds the 25 percent threshold for imputing knowledge of dumping to the importers of the subject merchandise.

In addition, we have adversely assumed, as BIA, a massive increase in imports because of the non-response of exporters.

Accordingly, because the dumping margin is sufficient to impute knowledge of dumping, and because we have determined that imports of fresh garlic have been massive, we determine that critical circumstances do exist with respect to fresh garlic from the PRC.

Continuation of Suspension of Liquidation

In accordance with section 735(d)(1) and 735(c)(4)(A) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of fresh garlic from the PRC, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after April 12, 1994, which is 90 days before the date of publication of the preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated margin amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
All Manufacturers/producers/exporters	376.67

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of this determination. The ITC will determine, within 45 days, whether these imports are causing material injury, or threat thereof, to the industry in the U.S. producing the subject merchandise. If the ITC determines that material injury, or threat thereof, does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: September 19, 1994.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–23767 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–DS–P

United States Geological Survey, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–067. *Applicant:* United States Geological Survey, Reston, VA 22092. *Instrument:* Mass Spectrometer. *Manufacturer:* Mass Analyzer Products, Ltd., United Kingdom. *Intended Use:* See notice at 59 FR 31208, June 17, 1994.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) a background at M/e =36 of less than 5.0×10^{-14} cc STP, (2) a rate of rise of ^{40}Ar degassing from walls of less than 1.0×10^{-12} cc STP/minute and (3) an ^{40}Ar peak top that is flat to within ± 0.1% over at least 50% of the peak tops for ion beams as small as 5.0×10^{-13} amps.

These capabilities are pertinent to the applicant's intended purpose and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 94–23766 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–DS–F

Minority Business Development Agency

Business Development Center Applications; Buffalo, New York

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications for its Buffalo, New York Minority Business Development Center (MBDC). The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Buffalo, New York Metropolitan Area. The award number of the MBDC will be 02–10–95003–01.

DATES: The closing date for applications is October 31, 1994. Applications must be post-marked on or before October 31, 1994.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, New York Regional Office, 26 Federal Plaza, Room 3720, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William Fuller at (212) 264–3262.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from March 1, 1995 to February 28, 1996, is estimated at $198,971. The total Federal amount of $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125. The application must include a minimum cost share 15% $29,846 in non-federal (cost sharing) contributions for a total project cost of $198,971. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: The knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (25 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determinations of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs", is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In the event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information and requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American Made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center
(Catalog of Federal Domestic Assistance)

September 20, 1994.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 94–23698 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–21–P–M

National Oceanic and Atmospheric Administration

[I.D. 083194A]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (P476B and P572).

SUMMARY: Notice is hereby given that the University of Washington, Washington Cooperative Fish and Wildlife Research Unit, School of Fisheries, WH–10, Seattle, WA 98195 (Principle Investigator: Dr. Glenn R. VanBlaricom) and the Florida Institute of Technology, Dept of Biological Sciences, 150 West University Blvd., Melbourne, FL 32905 (Principle Investigator: Dr. John G. Morris), have applied in due form for permits to take marine mammals for purposes of scientific research.

DATES: Written comments must be received on or before October 26, 1994.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment in the following office(s):

(P476B and P572) - Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

(P476B) - Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4001); and

Director, Northwest Region, NMFS, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115–0070 (206/526–6150); and

(P572) - Director, Southeast Region, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813/893–3141).

Written data or views, or requests for a public hearing on either of these requests, should be submitted to the Director, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1335 East-West Highway, Silver Spring, MD 20910–3226, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on these particular requests would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Glenn R. VanBlaricom, Ph.D. (P476B), requests a Permit to harass up to 334 gray whales (*Eschrichtius robustus*) (167/167 during north/southbound migrations) over a 1-year period during production of low-frequency sounds, using a transducer dropped from a boat off the central California coast. Several marine mammal species may also be affected by the acoustic studies.

John G. Morris, Ph.D. (P572), requests a Permit to harass up to 565 bottlenose dolphins (*Tursiops truncatus*) over a 1-year period incidental to photo-identification and behavioral observations.

Dated: September 19, 1994.

Herbert W. Kaufman,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–23719 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–22–F

Travel and Tourism Administration

Travel and Tourism Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on October 25, 1994, at 9:00 a.m. at the Hilton Head Hyatt, 1 Hyatt Circle, Hilton Head Island, South Carolina.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the International Travel Act, as amended, and provide guidance to the Under Secretary for Travel and Tourism.

Agenda items are as follows:

I. Call to Order
II. Roll Call
III. Administrative Details
IV. Current Legislative Issues
V. Tourism Policy Council
VI. White House Conference on Travel & Tourism
VII. U.S.—Japan Tourism Exchange Promotion Program
VIII. Miscellaneous
IX. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the public forum and meeting. To the extent time is available, the presentation of oral statements will be allowed.

Jay E. Stewart, Committee Control Officer, United States Travel and Tourism Administration, Room 1513, U.S. Department of Commerce, Washington, D.C. 20230 (telephone: 202–501–6985) will respond to public requests for information about the meeting.

Greg Farmer,

Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 94–23689 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–11–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancellation of a Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

September 20, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Announcing the cancellation of a limit.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has determined to rescind the current restraint level on textile products in Categories 340/640 from El Salvador in view of recent statistical information concerning a restraint on these categories at this time.

The United States reserves its right under the Arrangement Regarding International Trade in Textiles done in Geneva on December 20, 1973 and extended on December 14, 1977, December 22, 1981, July 31, 1986, December 9, 1992 and December 9, 1993, to place these Categories 340/640 under a restraint should the statistical information change in the future.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to cancel the current limit for Categories 340/640.

Should it become necessary to discuss Categories 340/640 with the Government of El Salvador at a later date, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 35501, published on July 12, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 20, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: Effective on September 26, 1994, this directive cancels the limit established in the directive issued to you on July 6, 1994, by the Chairman, Committee for the Implementation of Textile Agreements, for cotton and man-made fiber textile products in Categories 340/640, produced or manufactured in El Salvador and exported during the twelve-month period which began on April 25 1994 and extends through April 24 1995

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94-23701 Filed 9-23-94; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

September 20, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 28, 1994.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6707. For information on embargoes and quota re-openings, call (202) 482-3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for carryforward, carryover, swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 65967, published on December 17, 1993

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 20, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 13, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on September 28, 1994, you are directed to amend the December 13, 1993 directive to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Republic of Korea:

Category	Adjusted twelve-month limit [1]
Group I	
200–223, 224–V [2], 224–O [3], 225–229, 300–326, 360–363, 369–O [4], 400–414, 464–469, 600–629, 665–669 and 670–O [5], as a group.	422,313,196 square meters equivalent.
Sublevels within Group I	
200	465,185 kilograms.
201	1,620,485 kilograms.
224–V	10,358,377 square meters.
611	3,708,812 square meters.
619/620	98,113,349 square meters.
624	7,977,337 square meters.
625/626/627/628/629.	15,117,821 square meters.
Group II	
237, 239, 330–359, 431–459 and 630–659, as a group.	552,956,579 square meters equivalent.
Sublevels within Group II	
239	981,468 kilograms.
333/334/335	263,261 dozen of which not more than 134,555 dozen shall be in Category 335
336	44,068 dozen.
338/339	1 160,226 dozen

Category	Adjusted twelve-month limit [1]
340	665,820 dozen of which not more than 345,715 dozen shall be in Category 340–D [6]
341	155,314 dozen.
342/642	217,584 dozen.
345	115,811 dozen.
347/348	514,597 dozen.
351/651	228,578 dozen.
352	176,242 dozen.
433	14,413 dozen.
434	7,393 dozen.
435	36,564 dozen.
442	51,828 dozen.
443	338,159 numbers.
444	55,431 numbers.
445/446	54,068 dozen.
448	36,799 dozen.
459–W [7]	97,717 kilograms.
631	300,337 dozen pairs.
632	1,561,818 dozen pairs.
633/634/635	1,392,261 dozen of which not more than 157,880 dozen shall be in Category 633 and not more than 588,368 dozen shall be in Category 635.
636	287,651 dozen.
638/639	5,368,441 dozen.
640–D [8]	3,003,053 dozen.
641	1,110,818 dozen of which not more than 42,764 dozen shall be in Category 641–Y [9].
647/648	1,246,050 dozen.
659–H [10]	1,308,007 kilograms.
Group III	
831–844, and 847–859 as a group.	18,158,568 square meters equivalent.
Sublevel within Group III	
835	30,628 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[3] Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V).

[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000 (Category 369–L), and 5601.21.0090.

[5] Category 670–O. all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[6] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[7] Category 459–W only HTS number 6505.90.4090.

[8] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030.

[9] Category 641–Y only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[10] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–23705 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

September 20, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 28, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 341 is being increased by application of swing, reducing the limit for Category 640 to account for the increase.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 40873, published on August 10, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements

Committee for the Implementation of Textile Agreements

September 20, 1994.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on August 4, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994

Effective on September 28, 1994, you are directed to amend the directive dated August 4, 1994 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Nepal:

Category	Adjusted twelve-month limit [1]
341	912,321 dozen.
640	103,770 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–23703 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

September 20, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 28, 1994.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International

Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 9730, published on March 1, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 20, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 23, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on September 28, 1994, you are directed to amend the directive dated February 23, 1994 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Philippines:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335	140,442 dozen.
347/348	1,999,829 dozen.
635	369,628 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–23704 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Romania

September 20, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: September 27, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6715. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 447/448 in Group III is being increased by application of swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 65968, published on December 17, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements

Committee for the Implementation of Textile Agreements

September 20, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 13, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on September 27, 1994, you are directed to amend the directive dated December 13, 1993 to increase the limit for the Categories 447/448 to 15,264 dozen [1], as provided under the terms of the current bilateral agreements between the Governments of the United States and Romania.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–23702 Filed 9–23–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0007; FAR Case 91–78]

OMB Clearance Request for Summary Subcontract Report

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for a revision to an existing OMB clearance (9000–0007) for Standard Form 295.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition

[1] The limit has not been adjusted to account for any imports exported after December 31, 1993.

Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request for a revision of a currently approved information collection requirement concerning Summary Subcontract Report (SF 295).

DATES: Comments may be submitted on or before November 25, 1994.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with the Small Business Act (15 U.S.C. 631, *et seq.*), contractors receiving a contract for more than $10,000 agree to have small and small disadvantaged business concerns participate in the performance of the contract as far as practicable. Contractors receiving a contract or a modification to a contract expected to exceed $500,000 ($1,000,000 for construction) must submit a subcontracting plan that provides maximum practicable opportunities for small and small disadvantaged business concerns. Specific elements required to be included in the plan are specified in section 8(d) of the Small Business Act and are implemented in FAR 19.7.

In conjunction with these plans, contractors must submit reports of their progress on SF 295, Summary Subcontract Report. In addition, OFPP Policy Letter 91–1, Government-Wide Small Business and Small Disadvantaged Business Goals for Procurement Contracts, requires Executive branch departments and agencies to report the number and dollar value of subcontracts awarded to small business, small disadvantaged business and women-owned small business. The report is being expanded to collect information on the number of subcontract awards to small business, small disadvantaged business and women-owned small business which is not currently collected by the report.

Information submitted on SF 295 is used to assess contractor's compliance with their subcontracting plans and to report achievement of goals for subcontract awards to small business, small disadvantaged business and women-owned small business.

B. Annual Reporting Burden

Total annual public reporting burden for this collection of information is estimated to average *99,024* hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW., Room 4035, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, *1,542;* responses per respondent, *3.6;* total annual responses, *5,568;* preparation hours per response, *17,78;* and total response burden hours, *99,024.*

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeeppers, *1,542;* hours per recordkeeper, *14;* and total recordkeeping burden hours, *21,588.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0007, FAR case 91–78, Summary Subcontract Report, in all correspondence.

Dated: September 19, 1994.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 94–23699 Filed 9–23–94; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before October 26, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Eduction, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement;
(2) Title;
(3) Frequency of collection;
(4) The affected public;
(5) Reporting burden; and/or
(6) Recordkeeping burden; and
(7) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: September 21, 1994.

Ingrid Kolb,

Acting Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: NEW
Title: Collection Requirements for the National Academy for Science, Space and Technology Scholarship Program
Frequency: Annually

Affected Public: Individuals or households; Non-profit institutions
Reporting Burden:
Responses: 172
Burden Hours: 43
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: P.L. 101–589, Section 621, as amended by P.L. 102–325, Section 1556, authorizes the National Academy of Science, Space and Technology Program. The statute requires that the awardeses of the scholarships be enrolled in certain major fields of study and then fulfill a one-year service obligation upon graduation. The information to be collected is required to assure that the students are enrolled in acceptable majors.

[FR Doc. 94–23752 Filed 9–23–94; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Nevada Operations Office; Implementation of Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE), Nevada Operations Office (DOE/NV).

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE/NV announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2)(i), it is awarding a noncompetitive financial assistance grant for the research of detector materials for nonproliferation of weapons of mass destruction.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: Steven Curtis, P.O. Box 98518, Las Vegas, NV 89193–8518.

SUPPLEMENTARY INFORMATION: This award will provide financial support to the Nuclear Engineering Department at the Massachusetts Institute of Technology (MIT) in order to continue materials research work for detectors to aid nonproliferation of weapons of mass destruction. The MIT graduate and doctoral students have made exceptional progress in refining the purity and increasing the size of crystals. This award will enable MIT to continue making great strides in this field of research. These efforts promise to be beneficial to DOE by significantly improving detector efficiency thereby reducing the cost.

Eligibility for the award of this grant is being limited to the MIT because of their exclusive domestic capabilities and unique qualifications to perform the activity successfully.

The project period of this grant is three years and will commence on October 11, 1994, through September 29, 1997. The total estimated cost of this award is $865,000.

Issued in Las Vegas, Nevada, on September 12, 1994.

Robert M. Nelson, Jr.,
Manager, DOE Nevada Operations Office.

[FR Doc. 94–23746 Filed 9–23–94; 8:45 am]
BILLING CODE 6450–01–M

Financial Assistance Award: Virginia Polytechnic Institute and State University

AGENCY: Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of intent.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center, announces that pursuant to 10 CFR 600.14 (e) and (f) it intends to make a Non-Competitive Financial Assistance Award (Grant) to Virginia Polytechnic Institute and State University based on an Unsolicited Proposal submitted to DOE by the University.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Center, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn.: William R. Mundorf, Telephone: (412) 892–4483, Comments or inquiries should be submitted within 14 days of the date of this announcement.

SUPPLEMENTARY INFORMATION: Virginia Polytechnic Institute and State University (VPI) has proposed to DOE to cost share, by approximately 20%, a program to assist the U.S. coal industry to improve its efficiency in producing lower sulfur coals. VPI will be the lead organization of the Appalachian Clean Coal Technology Consortium (ACCTC). ACCTC involves three universities (VPI, West Virginia University and the University of Kentucky) as charter members, and five coal companies, an A&E firm and an equipment company as affiliate members. The objectives of the consortium are (1) to increase the production of lower sulfur coals, (2) to enhance the competitiveness of U.S. coals in the international market, (3) to create high-tech jobs in the economically-depressed areas of Appalachia, (4) to reduce the nation's dependency of foreign energy supplies, (5) to produce coals from refuse ponds in useable forms, and (6) to minimize the impact of coal burning on the environment. Cooperative relationships with coal companies, equipment manufacturers, and A&E firms are planned to assist in achieving the objectives. The work will entail (1) development of new advanced coal cleaning technologies, (2) improvement of the efficiency of existing coal cleaning technologies, (3) information exchange, and (4) train personnel/work force for industry.

In accordance with 10 CFR 600.14 (e) and (f), acceptance of an Unsolicited Proposal from VPI has been justified. DOE support of the ACCTC activities would provide a unique and innovative method of enhancement of the competitiveness of U.S. coals that would otherwise be unavailable. This effort is therefore considered suitable for noncompetitive financial assistance and would not be eligible for financial assistance under a solicitation.

DOE funding for this research is estimated to be approximately $250,000 for a 12 month period of performance. These funds shall be used to pay for the reasonable cost of research staff and support personnel necessary for the overall project.

Issued in Washington, DC on September 12, 1994.

Richard D. Rogus,
Contracting Officer.

[FR Doc. 94–23745 Filed 9–23–94; 8:45 am]
BILLING CODE 6450–01–M

Nevada Operations Office; Implementation of Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE), Nevada Operations Office (DOE/NV).

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE/NV announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2)(i), it is awarding a noncompetitive financial assistance grant for the research of detector materials for nonproliferation of weapons of mass destruction.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: Steven Curtis, P.O. Box 98518, Las Vegas, NV 89193–8518.

SUPPLEMENTARY INFORMATION: This award will provide financial support to the Nuclear Engineering Department at the University of Michigan, Ann Arbor in order to continue materials research work. University of Michigan graduate and doctoral students have made exceptional progress in developing

room-temperature gamma radiation detector capabilities. This award will enable the University of Michigan to continue making great strides in this field of research in producing smaller, more useful detection tools for the nonproliferation community. These efforts promise to be beneficial to DOE by significantly improving detector efficiency thereby reducing the cost.

Eligibility for the award of this grant is being limited to the University of Michigan because of their exclusive domestic capabilities and unique qualifications to perform the activity successfully.

The project period of this grant is three years and will commence on October 11, 1994 through September 29, 1997. The total estimated cost of this award is $770,000.

Issued in Las Vegas, Nevada, on September 12, 1994.

Robert M. Nelson, Jr.,

Manager, DOE Nevada Operations Office.

[FR Doc. 94–23747 Filed 9–23–94; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed by October 26, 1994. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Norma White, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Ms. White may be telephoned at (202) 254–5327.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–512
3. 1902–0073
4. Application for Preliminary Permit
5. Extension
6. On occasion
7. Mandatory
8. Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; and Small businesses or organizations
9. 150 respondents
10. 1 response
11. 73 hours per response
12. 10,950 hours
13. FERC–512 is used to carry out the requirements of the Federal Power Act which directs the Commission to issue preliminary permits to maintain priority application for the proposed hydro development license while the permittee conducts feasibility studies and preliminary application data collections.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. 96–511), which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. 3506 (a) and (c)(1)).

Issued in Washington, DC, September 15, 1994.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 94–23744 Filed 9–23–94; 8:45 am]

BILLING CODE 6450–01–P

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Energy.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed by October 26, 1994. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and

Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Norma White, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Ms. White may be telephoned at (202) 254–5327.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–500
3. 1902–0058
4. Application for License for Water Project with More Than 5 MW Capacity
5. Extension
6. On occasion
7. Mandatory
8. Individuals or households; State or local governments; Businesses or other for-profit; and Federal agencies or employees
9. 13 respondents
10. 1 response
11. 832 hours per response
12. 10,816 hours
13. FERC–500 is used to carry out the requirements of the Federal Power Act which authorizes and empowers the Commission to issue licenses to any citizen, state or municipality for the purpose of developing water reservoirs with dams, conduits, etc., to improve navigation or develop and transmit generated power.

The second energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–505
3. 1902–0115
4. Application for License for Water Projects 5 MW or Less
5. Revision
6. On occasion
7. Mandatory
8. Individuals or households; State or local governments; Businesses or other for-profit; and Federal agencies or employees
9. 19 respondents
10. 1 response
11. 169 hours per response
12. 3,211 hours
13. See Item 13, above.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. 96–511), which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. 3506 (a) and (c)(1)).

Issued in Washington, DC, September 16, 1994.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 94–23750 Filed 9–23–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP94–763–000, et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

September 19, 1994.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP94–763–000]

Take notice that on September 9, 1994, Northern Natural Gas Company (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP94–763–000 an application pursuant to Section 7(c) of the Natural Gas Act for issuance of a certificate of public convenience and necessity authorizing the construction and operation of facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to construct and operate: (1) 1.42 miles of 30-inch mainline piping on Northern's C-Line in Washington County, Minnesota; (2) one town border station in Washington County; and (3) a 1,250 horsepower compressor unit in Northern's Farmington compressor station in Dakota County, Minnesota. Northern proposes an in-service date of October 12, 1996. Northern states that the total estimated cost of the proposed facilities is $4,247,000.

Northern asserts that the proposed facilities would expand the capacity of its system by 29,120 Mcf per day. Northern further asserts that it would use the expanded capacity to render firm transportation services to Peoples Natural Gas Company, a division of Utilicorp United, Inc. (Peoples) for service to LS Power-Cottage Grove Limited Partnership (LS Power).

Northern states that it has entered into a precedent agreement (Agreement) for firm transportation service with LS Power for 29,120 Mcf per day for a primary term of 20 years. Northern also states that Peoples has agreed to roll-over their currently existing firm transportation service for a quantity equal to 29,120 Mcf per day for a term equal to the term of the Agreement. Northern asserts that Peoples has agreed to permanently release the rolled-over capacity to LS Power as firm transportation capacity on Northern in Zone EF.

Comment date: October 11, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Texas Gas Transmission Corporation

[Docket No. CP94–769–000]

Take notice that on September 9, 1994, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP94–769–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a 4-inch meter run in St. Martin Parish, Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas proposes to abandon a 4-inch meter run in St. Martin Parish, Louisiana, since it is no longer needed because production in the Simon Pass Field has fallen and another existing meter will be sufficient to measure current and future gas production at this location.

Comment date: October 11, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP94–775–000]

Take notice that on September 13, 1994, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP94–775–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain pipeline facilities located offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee proposes to abandon its West Cameron 173/180 system by sale to Chevron U.S.A. Inc. (Chevron). Tennessee states that the system consists of the following.

(1) Approximately 1.27 miles of 10-inch pipeline (507K–1900) together with Meter No. 1–1223, measurement and appurtenant facilities, located in West Cameron Block 180.

(2) Approximately 0.4 miles of 6-inch pipeline (507K–2200) together with Meter No. 1–1790, measurement and appurtenant facilities located in West Cameron Block 173.

(3) The West Cameron 173F platform, two compressors totaling 6,800 horsepower, and appurtenant facilities.

Tennessee further states that, pursuant to a letter of intent dated March 8, 1994, Chevron would pay $600,000 for the facilities; which represents a loss of $316,504 when compared to the net book value.

Tennessee advises that the gas purchase and sales agreements associated with the facilities have been

terminated and there are no other active contracts involved with the facilities.

Comment date: October 11, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–23776 Filed 9–23–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER94–1538–000]

EDC Power Marketing, Inc.; Notice of Issuance of Order

September 20, 1994.

On August 5, 1994, EDC Power Marketing, Inc. (EDC) submitted for filing a rate schedule under which EDC will engage in wholesale electric power and energy transactions as a marketer. EDC also requested waiver of various Commission regulations. In particular, EDC requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by EDC.

On September 14, 1994, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by EDC should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, EDC is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of EDC's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 14, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–23778 Filed 9–23–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1432–000]

JEB Corp.; Notice of Issuance of Order

September 20, 1994.

On July 1, 1994 and July 25, 1994, JEB Corporation (JEB) submitted for filing a rate schedule under which JEB will engage in wholesale electric power and energy transactions as a marketer. JEB also requested waiver of various Commission regulations. In particular, JEB requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by JEB.

On September 8, 1994, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by JEB should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, JEB is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interests, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of JEB's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 11, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–23777 Filed 9–23–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5078–5]

President's Commission on Risk Assessment and Risk Management; Notice of Open Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the President's Commission on Risk Assessment and Risk Management, established as a Presidential Advisory Committee under Section 303 of the Clean Air Act Amendments of 1990, will meet on the following dates: October 20 from 4:00 p.m. to 7:00 p.m. and again on October 21 from 8:00 a.m. until 4:00 p.m. at the St. Louis Marriott Pavillion Hotel, 1 Broadway, St. Louis, MO (phone: 314–421–1776). Time will be set aside for public comment on October 21 towards the end of the day. If you wish to make a five minute presentation, please call Joanna Foellmer 703–308–8087. There will also be a meeting of the Commission in Washington, DC on November 17, 1994 and January 11, 1995. The locations of these meetings have not yet been determined. Please call Joanna Foellmer, 703–308–8087 for times, location, agendas, etc. The meetings are open to the public, and will begin at 8:00 a.m. and adjourn at approximately 4:00 p.m. Seating at the meeting is limited; therefore, seating will be on a first come basis.

Background

The Risk Assessment and Management Commission held its first meeting on May 16, 1994 (**Federal Register** 59 FR 22615 Vol. 59, No. 83, May 2, 1994.) The Commission was established by Congress to make a full investigation of the policy implications and appropriate uses of risk assessment and risk management in regulatory programs under various Federal laws to prevent cancer and other chronic human health effects which may result from exposure to hazardous substances.

It is expected that the Commission members will continue their inquiries and discussions on the five topical areas mandated by Congress: review of the National Research Council's report Science and Judgment in Risk Assessment (1994); exposure scenarios; uncertainty and variability; risk management; and cross-agency consistency

For information about the Commission, please call Joanna Foellmer at 703–308–8087

Dated: September 19, 1994.

Gail Charnley,

Executive Director, President's Commission on Risk Assessment and Risk Management.

[FR Doc. 94–23677 Filed 9–23–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office Of Management and Budget for Review

September 15, 1994.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 418–0214. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0192
Title: § 87.103, Posting station license
Form Number: FCC Form 395
Action: Extension of a currently approved collection
Respondents: Individuals or households, state or local governments, non-profit institutions and businesses or other for-profit (including small businesses)
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 47,800 recordkeepers; .25 hours average burden per recordkeeper; 11,950 hours total annual burden
Needs and Uses: The recordkeeping requirements in § 87.103 are necessary to demonstrate that all transmitters in the Aviation Service are properly licensed in a accordance with the requirements of § 301 of the Communications Act of 1934, as amended. For stations at fixed locations the license or a photocopy must be posted or retained in the station's permanent records. For aircraft radio stations the license must be either posted in the aircraft or kept with the aircraft registration certificate. If a single authorization covers a fleet of aircraft, a copy of the license must be either posted in each aircraft or kept with each aircraft registration certificate. For aeronautical mobile stations, the license must be retained as a permanent part of the station records. The information is used by FCC staff during inspections and investigations to insure the particular station is licensed and operated in compliance with applicable rules, statutes, and treaties. In the case of aircraft stations, the information may be utilized for similar purposes by appropriate representatives of foreign governments when the aircraft is operated in foreign nations.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–23658 Filed 9–23–94; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1039–DR]

Alaska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA–1039–DR), dated September 13, 1994, and related determinations.

EFFECTIVE DATE: September 13, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 13, 1994, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), *as follows:*

I have determined that the damage in certain areas of the State of Alaska, resulting from severe storms and flooding on August 8, 1994, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Alaska

In order to provide Federal assistance you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In addition, you are authorized to provide Individual and Family Grant assistance in accordance with Section 411 of the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Richard A. Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alaska to have been affected adversely by this declared major disaster:

The Northwest Arctic Borough and the Yukon Educational Region for Individual Assistance and Public Assistance and the Dalton Highway for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–23737 Filed 9–23–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1038–DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–1038–DR), dated September 13, 1994, and related determinations.

EFFECTIVE DATE: September 13, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 13, 1994, the President declared a major disaster under the authority of the Robert T Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of California, resulting from the continuing effects of the warm water currents known as El Nino on the 1994 Coho salmon fishing season on May 1, 1994, through October 31, 1994, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of California.

You are authorized to provide Disaster Employment Assistance in the designated areas. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Disaster Unemployment Assistance and administrative expenses in the designated areas.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mark Duggan of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

The counties of Del Norte, Humboldt, Mendocino and Sonoma for Disaster Unemployment Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–23738 Filed 9–23–94; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N W., 9th Floor Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200259–008.

Title: Jacksonville Port Authority/Crowley American Transport, Inc. Terminal Agreement.

Parties:

Jacksonville Port Authority

Crowley American Transport, Inc.

Synopsis: The proposed amendment extends the term of the Agreement.

Agreement No.: 224–200883.

Title: Tampa Port Authority/TSC—USA, Inc. Terminal Agreement.

Parties:

Tampa Port Authority ("Port")

TSC—USA, Inc. ("TSC")

Synopsis: The proposed Agreement authorizes the Port to lease acreage and warehouse space to TSC. It also provides for wharfage rates with escalations after the fifth year, and wharfage incentive rates on annual tonnages in excess of 50,000 net tons.

Agreement No.: 224–200884.

Title: Port of Oakland/Italia S.p.A. di Navigazione Terminal Use Agreement.

Parties:

Port of Oakland ("Port")

Italia S.p.A. di Navigazione ("Italia")

Synopsis: The proposed Agreement provides that Italia shall have non-exclusive rights to certain assigned premises at the Port's Charles P. Howard Terminal. As a consideration for its regular use of the Port, Italia will pay 90 percent of dockage and wharfage tariff charges subject to certain agreed upon provisions. The Agreement has an initial term of five years.

Agreement No.: 224–200885.

Title: Port of Oakland/d'Amico Societa di Navigazione per Azioni Terminal Use Agreement.

Parties:

Port of Oakland ("Port")

d'Amico Societa di Navigazione per Azioni ("d'Amico")

Synopsis: The proposed Agreement provides that d'Amico shall have non-exclusive rights to certain assigned premises at the Port's Charles P. Howard Terminal. As a consideration for its regular use of the Port, d'Amico will pay 90 percent of dockage and wharfage tariff charges subject to certain agreed upon provisions. The Agreement has an initial term of five years.

By Order of the Federal Maritime Commission

Dated: September 20, 1994

Joseph C. Polking,

Secretary.

[FR Doc. 94–23743 Filed 9–23–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Raritan State Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 20, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Raritan State Bancorp, Inc., Raritan, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Raritan State Bank, Raritan, Illinois.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Sleepy Eye Bancorporation, Inc., Sioux Falls, South Dakota; to acquire 99.67 percent of voting shares of Capital Bank, St. Paul, Minnesota.

2. Riverside Acquisition Corporation, Minneapolis, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Riverside Bancshares Corporation, Minneapolis, Minnesota, and thereby indirectly acquire Riverside Bank, Minneapolis, Minnesota.

Board of Governors of the Federal Reserve System, September 20, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–23726 Filed 9–23–94; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Federal Government Intercity Telecommunications Services; FTS2000 Contracts; Notice

The Federal government currently satisfies its intercity telecommunications services through the Federal Telecommunications System 2000 (FTS2000) contracts. The existing FTS2000 contracts will expire in 1998. As a part of the continuing, open discussion related to the post-FTS2000 provision of telecommunications services to Federal government users, the government hereby advises interested parties of the following opportunities to participate in this discussion.

The government will release a report entitled, "Analysis of Post-FTS2000 Acquisition Alternatives" on or about September 26, 1994. The report states the goals of the Post-FTS2000 acquisitions; provides a preliminary definition of the scope of the Post-FTS2000 acquisitions; describes the acquisition strategies being considered; summarizes the status of the government's analysis; and solicits views and comments from all interested parties, such as public, industry, academia, and other government agencies, that will assist the government in determining the Post-FTS2000 acquisition strategy most advantageous to the government.

This report was prepared, as a framework for further study, by the Acquisition Working Group, a subcommittee of the Interagency Management Council. At present, the government plans to make the report available for public viewing in the General Services Administration Bid Room, located at 7th and D Streets, SW, Room 1701, Washington, DC 20407 on or about September 26, 1994. The report will be electronically accessible via the Internet in one of two methods. Files may be downloaded electronically via anonymous FTP from post.fts2k.gsa.gov under the /pub directory. Files may also be pursued (and downloaded) and full-text searches may be made via a World Wide Web client (such as Mosaic) by accessing our home page, whose URL is http:/ /post.fts2k.gsa.gov/ The government will accept written comments on the report, through October 17, 1994. Comments may be submitted to the General Services Administration, Attention: Concept Development Record, c/o The MITRE Corporation, 7525 Colshire Drive (STOP Z397), McLean, VA 22102. It is preferred that comments be submitted electronically to an Internet address of cdr@post.fts2k.gsa.gov in any of the following four formats: Ordinary ASCII, PostScript; unencoded representations of Microsoft Word (version 6.0 and earlier) documents; and unencoded representations of Word Perfect (version 6.0 and earlier) documents.

The government also invites oral comments on this document for presentation before a Government Panel, consisting of members of the Interagency Management Council, at the "Post-FTS2000 Comments Review Panel Meeting" to be held October 25, 26, and 27, 1994, from 9 a.m. to 4:30 p.m., at the Department of State's Dean Acheson Auditorium, 2201 C Street, NW, Washington, DC 20520. Requests for an opportunity to speak and/or to attend the meeting will require advance reservation with the understanding that the government will limit the number of presentations based on time constraints and space. Requests for an invitation to make oral comments should be submitted with your written comments Requests for attendance will be accepted on a first-come basis until seating capacity is reached. A Registration Form, with instructions, is included in the "Analysis of Post-FTS2000 Acquisition Alternatives" report. The following information is requested for registration: Name; Title; Organizations; Address; Phone No.; FAX No.; and Internet address. In addition, the Department of State requires Social Security No. (citizens) or Passport No. (non-citizens) and Date of Birth. Submit requests by October 17, 1994, to FAX (703) 883–5214 or (703) 883–5914 or INTERNET—cdr@post.fts2k.gsa.gov. Reservations will be confirmed by October 21, 1994. Both written and oral comments will be incorporated into the Post-FTS2000 Concept Development Record which will be made available to the public.

If you have any questions regarding this notice, please contact Carolyn A. Thomas on (703) 827–5106 or Margaret Fischer on (703) 883–3363.

Dated: September 6, 1994.

Trudi Cassaday Bailey,

Contracting Officer.

[FR Doc. 94–23681 Filed 9–23–94; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[GN# 2273]

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Gerald J. August, Ph.D., University of Minnesota Medical School: The Division of Research Investigations (DRI) of the Office of Research Integrity (ORI) reviewed an investigation conducted by the University of Minnesota into possible scientific misconduct on the part of Gerald J. August, Ph.D., an Associate Professor of Psychiatry at the University of Minnesota Medical School. The University concluded that Dr. August committed scientific misconduct by plagiarizing materials in a Public Health Service (PHS) grant application which he obtained as a member of a PHS Special Study Section. ORI concurred with the University's findings. Dr. August accepted the misconduct findings and agreed to a Voluntary Settlement Agreement under which, for a five year period beginning May 6, 1994, (1) Dr. August will not serve on PHS advisory committees, boards, or peer review groups and (2) he is to submit a certification with each document, application, or report that he submits to a PHS component that the work of others contained in the document, application, or report is properly attributed.

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Thomas G. Morford,

Deputy Director, Office of Research Integrity.

[FR Doc. 94–23654 Filed 9–23–94; 8:45 am]

BILLING CODE 4160–17–M

Food and Drug Administration

[Docket No. 94D–0284]

Miscellaneous Compliance Policy Guides; Revocation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of three compliance policy guides (CPG's) because they are outdated. This action is being taken to ensure that FDA's CPG's accurately reflect FDA policy.

DATES: Effective September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Judith A. Gushee, Center for Veterinary Medicine (HFV–236), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1785.

SUPPLEMENTARY INFORMATION: FDA is revoking three of its CPG's because either they no longer reflect FDA policy, or they have been superseded by more comprehensive guidance. The following three guides are being revoked:

(1) CPG 7125.03 "Sale of Prescription-legend Veterinary Drugs"

The information contained in CPG 7125.03 also is found in Compliance Program 7371.002, and the information in Compliance Program 7371.002 is more current and thorough than that contained in CPG 7125.03. Therefore, CPG 7125.03 is obsolete.

(2) CPG 7125.10 "Veterinarian Use of New Animal Drug Substances"

This CPG states that veterinarians may use within their practice whatever bulk drugs they may legally obtain, i.e., those that do not require a new animal drug application (NADA). This policy implies that the requirement for a NADA is the exceptional situation. In fact, in most cases, an approved NADA is required before bulk drug substances could be used by veterinarians to produce a finished pharmaceutical. This position was upheld in *United States* v. *9/1 KG Containers, More or Less, of an Article of Drug for Veterinary Use [Schuyler Laboratories, Inc.]*, 854 F.2d 173 (7th Cir. 1988). Therefore, FDA is revoking CPG 7125.10 so that agency policy will not be misinterpreted. Furthermore, FDA is in the process of developing policy guidance pertaining to the compounding of drugs for veterinary use that will be issued in due course.

(3) CPG 7126.02 "Gentian Violet in Animal Feed"

In a memo dated August 16, 1991, FDA's Center for Veterinary Medicine (CVM) informed all district offices and all resident posts that this CPG was no longer CVM policy. CPG 7126.02 was not revoked at the time. That oversight is now being corrected.

Dated: August 31, 1994.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 94–23773 Filed 9–23–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94C–0312]

ProMedica International; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that ProMedica International has filed a petition proposing that the color additive regulations be amended to provide for the safe use of [phthalocyaninato(2-)] copper as a color additive in nonabsorbable polyvinylidene fluoride sutures intended for use in general and ophthalmic surgery.

DATES: Written comments on the petitioner's environmental assessment by October 26, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3083.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 721(b)(5) (21 U.S.C. 379e(b)(5))), notice is given that a color additive petition (CAP 4C0244) has been filed by ProMedica International, 620 Newport Center Dr., suite 575, Newport Beach, CA 92660. The petition proposes to amend the color additive regulations in § 74.3045 *[Phthalocyaninato(2-)] copper* (21 CFR 74.3045) to provide for the safe use of [phthalocyaninato(2-)] copper as a color additive in nonabsorbable polyvinylidene fluoride sutures intended for use in general and ophthalmic surgery.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before October 26, 1994, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the

docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 15, 1994.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 94-23774 Filed 9-23-94; 8:45 am]

BILLING CODE 4160-01-F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Ophthalmic Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. October 20 and 21, 1994, 8:30 a.m., Holiday Inn—Gaithersburg, Grand Ballroom, Two Montgomery Village Ave., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the Holiday Inn—Gaithersburg. Attendees requiring overnight accommodations may contact the hotel at 301-948-8900 and reference the FDA Ophthalmic Panel meeting block. Reservations will be confirmed at the group rate based on availability.

Type of meeting and contact person. Open public hearing, October 20, 1994, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; closed presentation of data, October 21, 1994, 8:30 a.m. to 1 p.m.; Sara M. Thornton, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-594-2053.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 30, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues relating to a premarket approval application (PMA) for an excimer laser for photorefractive keratectomy. There will be a diagnostic and surgical devices update presented to the panel including the current status of the pending PMA's for phototherapeutic keratectomy lasers. There will be announcements in the contact lens area that will include labeling issues regarding disposable lenses, and an update on: (1) The progress of contact lens care product reclassification, and (2) the development of guidance on clinical endpoints for extended wear contact lens studies. Announcements on intraocular implant issues are planned.

Closed presentation of data. The committee will discuss trade secret and/or confidential commercial information relevant to investigational device exemption applications and PMA's for contact lenses, surgical and diagnostic devices, and intraocular implants. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above)

beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: September 19, 1994.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 94–23707 Filed 9–23–94; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the review committees of the National Institute of Child Health and Human Development for November 1994.

These meetings will be open to the public to discuss items relative to committees activities including announcements by the Director, NICHD, and scientific review administrators, for approximately one hour at the beginning of the first session of the first day of the meeting unless otherwise listed. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Committee Management Officer, NICHD, 6100 Executive Boulevard, Room 5E03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meetings and rosters of committee members. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Plummer in advance of the meeting.

Other information pertaining to the meetings may be obtained from the Scientific Review Administrator as indicated.

Name of Committee: Maternal and Child Health Research Committee.

Scientific Review Administrator: Dr. Gopal Bhatnagar, 6100 Executive Boulevard—Rm. 5E03, Telephone 301–496–1485.

Date of Meeting: November 1–2, 1994.

Place of Meeting: Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: November 1, 1994, 8:00 a.m.—9:00 a.m.

Closed: November 1, 1994, 9:00 a.m.—5:00 p.m.; November 2, 1994, 8:00 a.m.—adjournment.

Name of Committee: Population Research Committee.

Scientific Review Administrator: Dr. A. T. Gregoire, 6100 Executive Boulevard—Rm. 5E03, Telephone: 301–496–1696.

Date of Meeting: November 3–4, 1994.

Place of Meeting: Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: November 3, 1994, 8 a.m.—9:00 a.m.

Closed: November 3, 1994, 9:00 a.m.—5 p.m.; November 4, 1994, 8 a.m.—adjournment.

Name of Committee: Mental Retardation Research Committee.

Scientific Review Administrator: Dr. Norman Chang, 6100 Executive Boulevard—Rm. 5E03, Telephone: 301–496–1485.

Date of Meeting: November 11, 1994.

Place of Meeting: Crowne Plaza, Biscayne Boulevard at 16th Street, Miami, Florida 33132.

Open: November 11, 1994, 8:00 a.m.—9:00 a.m.

Closed: November 11, 1994, 9:00 a.m.—adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.864, Population Research and No. 93.865, Research for Mothers and Children, National Institutes of Health.)

Dated: September 15, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–23670 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health; National Library of Medicine

Notice of Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on November 3–4, 1994, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on November 3 will be open to the public from 8:30 a.m. to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to

attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Roger W. Dahlen at 301–496–4221 two weeks before the meeting.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92–463, the meeting on November 3 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m., and on November 4 from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: September 15, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–23671 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for November 1994.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, Telephone: 301–496–7301, FAX: 301–402–0224, will provide a summary of the meeting and a roster of committee members.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Ann Dieffenbach.

Substantive program information may be obtained from each scientific review administrator whose name, room number, and telephone number are listed below each committee.

Name of Committee: Genetic Basis of Disease Review Committee.

Scientific Review Administrator: Dr. Arthur Zachary, Room 9A13, Westwood Building, Telephone: 301–594–7758.

Dates of Meeting: November 6–8, 1994.

Place of Meeting: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: November 6, 8 p.m.–10 p.m.

Closed: November 7, 8:30 a.m.–5 p.m.; November 8, 8:30 a.m.–adjournment.

Name of Committee: Minority access to Research Careers Review Subcommittee.

Scientific Review Administrator: Dr. Richard Martinez, Room 9A18, Westwood Building, Telephone: 301–594–7803.

Dates of Meeting: November 7–9, 1994.

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20892.

Open: November 7, 8:30 a.m.–10:30 a.m.;

Closed November 7, 10:30 a.m.–5 p.m.; November 8, 8:30 a.m.–5 p.m.; November 9, 8:30 a.m.—adjoiurnment.

Name of Committee: Cellular and Molecular Basis of Disease Review Committee.

Scientific Review Administrator: Dr. Carole Latker, Room 9A10, Westwood Building, Telephone: 301–594–7758.

Dated of Meeting: November 9–10, 1994.

Place of Meeting: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: November 9, 5:30 p.m.–7:30 p.m.

Closed: November 9, 8 a.m.–5 p.m.; November 10, 8 a.m.–adjournment.

Name of Committee: Minority Biomedical Research Support Review Subcommittee.

Scientific Review Administrator: Dr. Jean Flagg-Newton, Room 9A13, Westwood Building, Telephone: 301–594–7708.

Dates of Meeting: November 17–18, 1994.

Place of Meeting: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: November 17, 8:30–10:30 a.m.

Closed: November 17, 10:30 a.m.–5 p.m.; November 18, 8:30 a.m.–adjournment.

Name of Committee: Pharmacological Sciences Review Committee.

Scientific Review Administrator: Dr. Irene Glowinski, Room 9A18, Westwood Building, Telephone: 301–594–7741.

Dates of Meeting: November 17–18, 1994.

Place of Meeting: Embassy Suites, Chevy Chase Pavillion, 4300 Military Road, NW, Washington, DC 20015.

Open: November 17, 8 p.m.–10 p.m.

Closed: November 18, 8:30 a.m.–adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.859, 93.862, 93.863, 93.880, National Institute of General Medical Sciences, National Institutes of Health)

Date: September 15, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–23669 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: General Clinical Research Centers Committee.

Dates of Meeting: October 19–21, 1994.

Time: 8:00 a.m.–until adjournment.

Place of Meeting: Holiday Inn, Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Scientific Review Administrator: Dr. Bela J. Gulyas, National Institutes of Health, Westwood Building, Room 10A16, Eethesda, MD 20892, Telephone: (301) 594–7903.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.333, Clinical Research, National Institutes of Health, HHS)

Dated: September 16, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–23676 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting (Division of Cancer Treatment Board of Scientific Counselors)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, October 24–25, 1994, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on October 24 from 9 a.m. to approximately 5:15 p.m., to review program plans, concepts of contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 25 from 8:00 a.m. to approximately 11:15 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, Committee Management Officer, National Cancer Institute, Executive Plaza North Building, Room 630, National Institutes of Health, Bethesda, Maryland 20892–7405 (301–496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A44, National Institutes of Health, Bethesda, Maryland 20892–2440 (301–496–4291) will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Bruce Chabner (301–496–4291) in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 16, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–23674 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Center for Research Resources (NCRR) for October 23–25, 1994. This meeting will be open to the public to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice.

This meeting will be closed to the public as indicated below in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Maureen Mylander, Public Affairs Officer, NCRR, Westwood Building, Room 850, National Institutes of Health, Bethesda, Maryland 20892, (301) 594–7938, will provide a summary of meeting and a roster of the members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary, in advance of the meeting.

Name of Committee: Comparative Medicine Review Committee.

Scientific Review Administrator: Dr. Bernadette Tyree, National Institutes of Health, Westwood Building, Room 10A16, Bethesda, MD 20892, Telephone: (301) 594–7932.

Date of Meeting: October 23–25, 1994.

Place of Meeting: The Governor's House, 17th Street and Rhode Island Avenue, NW., Washington, DC 20036.

Closed: October 23, 6:30 p.m.—until recess.

Open: October 24, 8:30 a.m.—10:00 a.m.

Closed: October 24, 10:00 a.m.—until adjournment.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Laboratory Animal Sciences and Primate Research, National Institutes of Health.)

Dated: September 16, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–23675 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Alcohol Abuse and Alcoholism; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the National Institute on Alcohol Abuse and Alcoholism.

These meetings will be open to the public to discuss administrative details or other issues relating to committee activities as indicated in the notices. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Diana Widner at (301) 443–4376.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C. of Public Law 92–463, for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meetings and the rosters of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, National Institute on Alcohol Abuse and Alcoholism, Willco Building, Suite 409, 6000 Executive Blvd., Rockville, MD 20892–7003, Telephone: (301) 443–4376. Other information pertaining to the meetings can be obtained from the Scientific Review Administrator indicated.

Name of Committee: Neuroscience and Behavior Subcommittee, Alcohol Biomedical Research Review Committee.

Scientific Review Administrator: Antonio Noronha, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892, 301–443–9419.

Dates of Meeting: October 12–14, 1994.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Open: October 12, 9 a.m. to 11 a.m.

Agenda: Administrative Remarks.

Closed: October 12, 11 a.m. to recess; October 13, 8 a.m. to recess; October 14, 8 a.m. to adjournment.

Name of Committee: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee.

Scientific Review Administrator: Ronald Suddendorf, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892, 301–443–2932.

Dates of Meeting: October 17–19, 1994.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Open: October 17, 9 a.m. to 10 a.m.

Agenda: Administrative Remarks.

Closed: October 17, 10 a.m. to recess; October 18, 9 a.m. to recess; October 19, 9 a.m. to adjournment.

Name of Committee: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee.

Scientific Review Administrator: Thomas D. Sevy, M.S.W., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892, 301–443–6106.

Dates of Meeting: October 20–21, 1994.

Place of Meeting: Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Open: October 20, 8:30 a.m. to 9:30 a.m.

Agenda: Administrative Remarks.

Closed: October 20, 9:30 a.m. to recess; October 21, 9:30 a.m. to adjournment.

Name of Committee: Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee.

Scientific Review Administrator: Thomas D. Sevy, M.S.W., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892, 301–443–6106.

Dates of Meeting: October 27–28, 1994.

Place of Meeting: River Inn, 924 25th Street, N.W., Washington, D.C. 20037.

Open: October 27, 8:30 a.m. to 9:30 a.m.

Agenda: Administrative Remarks.

Closed: October 27, 9:30 a.m. to recess; October 28, 9:30 a.m. to adjournment.

Name of Committee: Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee.

Scientific Review Administrator: Barbara Smothers, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892, 301–443–4623.

Dates of Meeting: November 9–10, 1994.

Place of Meeting: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Open: November 9, 8:30 a.m. to 9 a.m.

Agenda: Administrative Remarks.

Closed: November 9, 9 a.m. to recess; November 10, 9 a.m. to adjournment.

(Catalog of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.281, Scientist Development Award, Research Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award, 93.891, Alcohol Research Center Grants, National Institutes of Health)

Dated September 16, 1994

Susan K. Feldman,

Committee Management Officer, NIH

[FR Doc 94–23672 Filed 9–23–94, 8 45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committees of the National Institute of Mental Health for November 1994.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the entire meeting of each review committee will be closed to the public for the review, discussion and evaluation of individual grant applications. These applications, evaluations, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Joanna L. Kieffer, Committee Management Officer, National Institute of Mental Health, Parklawn Building, Room 9–105, 5600 fishers Lane, Rockville, MD 20857, Area Code 301, 443–4333, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the contact person indicated.

Committee Name: Child Psychopathology and Treatment Review Committee.

Contact: Bernice R. Cherry, Parklawn Building, Room 9C–28, Telephone: 301 443–1367.

Meeting Date: November 2–4, 1994.

Time: 9 a.m.

Place: Wyndham Brystol Hotel, 2430 Pennsylvania Avenue, N.W., Washington, D.C. 20037.

Committee Name: Psychobiological, Biological, and Neuroscience Subcommittee, Mental Health AIDS and Immunology review Committee.

Contact: Rehana A. Chowdhury, Room 9C–26, Parklawn Building, Telephone: 301 443–6470.

Meeting Date: November 7–8, 1994.

Time: 8:30 a.m.

Place: St. James Hotel, 950 24th Street, N.W., Washington, D.C. 20037.

Committee Name: Epidemiology and Genetics Review Committee.

Contact: Bernice R. Cherry, Parklawn Building, Room 9C–28, Telephone: 301 443–1367

Meeting Date November 7–9, 1994

Time 9 a.m.

Place Embassy Suites Hotel, 4300 Military Road, N W , Washington, D.C. 20015

Committee Name Behavioral, Clinical, and Psychosocial Subcommittee, Mental Health AIDS and Immunology Review Committee

Contact Regina M Thomas, Parklawn Building, Room 9C–26, Telephone 301 443–6470

Meeting Date November 9–10, 1994

Time: 8:30 a.m.

Place: One Washington Circle, One Washington Circle, N.W., Washington, D.C. 20037.

(Catalog of Federal Domestic assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award.)

Dated: September 16, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–23673 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, on October 27 and October 28, 1994, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 12:45 p.m. and from 1:45 to 4:45 p.m. on October 27 and from 9:00 a.m. to approximately 12 noon on October 28 for the review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jackie Duley at 301–496–4441 in advance of the meeting.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 27, from approximately 12:45 p.m. to 1:45 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Harold M. Schoolman, Acting Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee

members, and substantive program information.

Dated: September 15, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–23668 Filed 9–23–94; 8:45 am]

BILLING CODE 4140–01–M

Office of Inspector General

Performance Standards for State Medicaid Fraud Control Units

AGENCY: Office of Inspector General, HHS.

ACTION: Notice.

SUMMARY: In accordance with section 1902(a)(61) of the Social Security Act and the authority delegated to the Inspector General, this notice sets forth standards for assessing the performance of the State Medicaid Fraud Control Units. These standards will be used in the certification and recertification of each Unit and to determine if a Unit is effectively and efficiently carrying out its duties and responsibilities.

EFFECTIVE DATE: These performance standards are effective on September 26, 1994.

FOR FURTHER INFORMATION CONTACT:

Paul F. Conroy, Office of Investigations, (202) 619–3210

Joel Schaer, Legislation, Regulations and Public Affairs Staff, (202) 619–0089

SUPPLEMENTARY INFORMATION:

I. Background

Since the enactment of the Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977, authorizing the establishment and funding for Medicaid Fraud Control Units (MFCUs), 42 States have created such fraud control units to investigate and prosecute Medicaid provider fraud and patient abuse and neglect in Medicaid funded facilities.

A MFCU must be a single, identifiable entity of the State government composed of (i) one or more attorneys experienced in investigating or prosecuting civil fraud or criminal cases who are capable of giving informed advice on applicable law and procedures and providing effective prosecution or liaison with other prosecutors; (ii) one or more experienced auditors capable of supervising the review of financial records and advising or assisting in the investigation of alleged fraud, and (iii) a senior investigator with substantial experience in commercial or financial investigations who is capable of supervising and directing the investigative activities of the unit. While the preference of the enabling legislation has been for the unit to investigate and prosecute its own cases on a Statewide basis, the legislative history recognizes that not all States are lawfully able to establish the MFCU to do so.

The State Medicaid agency is required to enter into an agreement with the MFCU to refer all suspected cases of provider fraud to the unit, and to comply with the unit's requests for provider records or computerized data that is kept by the Medicaid agency. To ensure that Medicaid overpayments identified by a MFCU in the course of its investigations are recovered, each MFCU is required either to undertake civil recovery actions or have procedures to refer overpayments for collection to other appropriate State agencies.

The HHS Office of Inspector General (OIG) is delegated the authority to certify and recertify the MFCUs to ensure that the units fully comply with the governing statute and with Federal regulations set forth in 42 CFR part 1007. As part of its recertification process, the OIG reviews the State fraud units' applications for recertification and may conduct on-site visits to the units to observe their operations. The OIG also collects and analyzes statistical data on the number and type of cases under investigation, the number of convictions obtained, and the amount of recoveries.

II. Use Of Performance Standards

Section 13625 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, amended section 1902 of the Social Security Act by adding a new paragraph (a)(61) that establishes a Medicaid State plan requirement that, effective January 1, 1995, a State must operate a MFCU in accordance with standards to be established by the Secretary.

The OIG intends to use these performance standards in the certification and recertification of a Unit, as well as for assessing the effectiveness of a Unit during on-site reviews.

III. Standards For Assessing The MFCUS

In cooperation with the Units themselves, represented by a working group from the National Association of Medicaid Fraud Control Units, the OIG has developed twelve performance standards to be used in evaluating a Unit's performance. Each of the current Unit directors has concurred with the standards and accompanying requirements or indicators set forth below.

Performance Standards

1. A Unit will be in conformance with all applicable statutes, regulations and policy directives.

In meeting this standard, the Unit must meet, but is not limited to, the following requirements—

A. The Unit professional staff must consist of permanent employees working full-time on Medicaid fraud and patient abuse matters.

B. The Unit must be separate and distinct from the single State Medicaid agency.

C. The Unit must have prosecutorial authority or an approved formal procedure for referring cases to a prosecutor.

D. The Unit must submit annual reports, with appropriate certifications, on a timely basis.

E. The Unit must submit quarterly reports on a timely basis.

F. The Unit must comply with the Americans with Disabilities Act, the Equal Employment Opportunity requirements, the Drug Free Workplace requirements, Federal lobbying restrictions, and other such rules that are made conditions of the grant.

2. A Unit should maintain staff levels in accordance with staffing allocations approved in its budget.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit employ the number of staff that were included in the Unit's budget as approved by the OIG?

B. Does the Unit employ the number of attorneys, auditors, and investigators that were approved in the Unit's budget?

C. Does the Unit employ a reasonable size of professional staff in relation to the State's total Medicaid program expenditures?

D. Are the Unit office locations established on a rational basis and are such locations appropriately staffed?

3. A Unit should establish policies and procedures for its operations, and maintain appropriate systems for case management and case tracking.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit have policy and procedure manuals?

B. Is an adequate, computerized case management and tracking system in place?

4 A unit should take steps to ensure that it maintains an adequate workload through referrals from the single State agency and other sources.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit work with the single State agency to ensure adequate fraud referrals?

B. Does the Unit work with other agencies to encourage fraud referrals?

C. Does the Unit generate any of its own fraud cases?

D. Does the Unit ensure that adequate referrals of patient abuse complaints are received from all sources?

5. A Unit's case mix, when possible, should cover all significant provider types.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit seek to have a mix of cases among all types of providers in the State?

B. Does the Unit seek to have a mix of Medicaid fraud and Medicaid patient abuse cases?

C. Does the Unit seek to have a mix of cases that reflect the proportion of Medicaid expenditures for particular provider groups?

D. Are there any special Unit initiatives targeting specific provider types that affect case mix?

E. Does the Unit consider civil and administrative remedies when appropriate?

6. A Unit should have a continuous case flow, and cases should be completed in a reasonable time.

In meeting this standard, the following performance indicators will be considered—

A. Is each stage of an investigation and prosecution completed in an appropriate time frame?

B. Are supervisors approving the opening and closing of investigations?

C. Are supervisory reviews conducted periodically and noted in the case file?

7. A Unit should have a process for monitoring the outcome of cases.

In meeting this standard, the Unit's monitoring of the following case factors and outcomes will be considered—

A. The number, age, and type of cases in inventory.

B. The number of referrals to other agencies for prosecution.

C. The number of arrests and indictments.

D. The number of convictions.

E. The amount of overpayments identified.

F. The amount of fines and restitution ordered.

G. The amount of civil recoveries.

H. The numbers of administrative sanctions imposed.

8. A Unit will cooperate with the OIG and other Federal agencies, whenever appropriate and consistent with its mission, in the investigation and prosecution of health care fraud.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit communicate effectively with the OIG and other Federal agencies in investigating or prosecuting health care fraud in their State?

B. Does the Unit provide OIG regional management, and other Federal agencies, where appropriate, with timely information concerning significant actions in all cases being pursued by the Unit?

C. Does the Unit have an effective procedure for referring cases, when appropriate, to Federal agencies for investigation and other action?

D. Does the Unit transmit to the OIG, for purposes of program exclusions under section 1128 of the Social Security Act, reports of convictions, and copies of Judgment and Sentence or other acceptable documentation within 30 days or other reasonable time period?

9. A Unit should make statutory or programmatic recommendations, when necessary, to the State government.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit recommend amendments to the enforcement provisions of the State's statutes when necessary and appropriate to do so?

B. Does the Unit provide program recommendations to single State agency when appropriate?

C. Does the Unit monitor actions taken by State legislature or State Medicaid agency in response to recommendations?

10. A Unit should periodically review its Memorandum of Understanding (MOU) with the single State Medicaid agency and seek amendments, as necessary, to ensure it reflects current law and practice.

In meeting this standard, the following performance indicators will be considered—

A. Is the MOU more than 5 years old?

B. Does the MOU meet Federal legal requirements?

C. Does the MOU address cross-training with the fraud detection staff of the State Medicaid agency?

D. Does the MOU address the Unit's responsibility to make program recommendations to the Medicaid agency and monitor actions taken by the Medicaid agency concerning those recommendations?

11. The Unit director should exercise proper fiscal control over the unit resources.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit director receive on a timely basis copies of all fiscal and administrative reports concerning Unit expenditures from the State parent agency?

B. Does the Unit maintain an equipment inventory?

C. Does the Unit apply generally accepted accounting principles in its control of Unit funding?

12. A Unit should maintain an annual training plan for all professional disciplines.

In meeting this standard, the following performance indicators will be considered—

A. Does the Unit have a training plan in place and funds available to fully implement the plan?

B. Does the Unit have a minimum number of hours training requirement for each professional discipline, and does the staff comply with the requirement?

C. Are continuing education standards met for professional staff?

D. Does training undertaken by staff aid in the mission of the Unit?

These standards may be periodically reviewed and discussed with the Units and other State representatives to ascertain their effectiveness and applicability. Additional or revised performance standards may be proposed when deemed appropriate.

Dated: September 16, 1994.

June Gibbs Brown,

Inspector General.

[FR Doc. 94–23692 Filed 9–23–94; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–050–406A–02]

Closure of Public Lands, Idaho; Notice

AGENCY: Bureau of Land Management; Interior.

ACTION: Closure of public roads and public land.

SUMMARY: Certain public land and roads in Camas County, Idaho, have been closed to all public use until further notice.

The emergency closure will protect the public from a number of potentially hazardous materials which were recently discovered in the abandoned mill at the Princess Blue Ribbon Mine.

The closed area is northwest of Fairfield, Idaho, and is legally described as:

T. 2 N., R. 16 E., Boise Meridian,
Section 34: SW¼NW¼SW¼.

SUPPLEMENTARY INFORMATION: Gates and barriers have been placed on the access roads leading to the abandoned mine. The area has been signed to identify the closure. The emergency closure will be rescinded once the potentially hazardous materials have been removed.

Exceptions from this closure may be approved by the Authorized Officer for federal, state, and local government personnel on official duty, emergency service personnel, removal contractors, or other permitted individuals.

The authority for this closure is 40 CFR 300.415 (b) and (d), Removal Action, and 43 CFR 8364.1, Closure and Restriction Orders. Failure to comply with this order will subject violators to the penalties provided in 43 CFR 8360.0–7.

FOR FURTHER INFORMATION CONTACT: Tim Fuller, Environmental Protection Specialist, Shoshone District Office, P.O. Box 2–B, Shoshone, Idaho, 83352. Telephone (208) 886–7273.

Dated: September 16, 1994.

David A. Koehler,

Monument Resource Area Manager.

[FR Doc. 94–23691 Filed 9–23–94; 8:45 am]

BILLING CODE 4310–GG–P

[UTU–65383]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease UTU–65383 for lands in San Juan County, Utah, was timely filed and required rentals accruing from May 1, 1994, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease UTU–65383, effective May 1, 1994, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Chief, Minerals Adjudication Section.

[FR Doc. 94–23693 Filed 9–23–94; 8:45 am]

BILLING CODE 4310–DQ–M

[NV–943–4210–06; N–56543]

Realty Action: Termination of Recreation and Public Purposes Classification and Opening Order, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates an existing Recreation and Public Purposes Classification N–56543 in its entirety and opens the land to appropriation under the public land laws and the general mining laws.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Carmen Donelson, Bureau of Land Management, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520–0006, (702) 785–6530.

SUPPLEMENTARY INFORMATION: The lands described below were classified suitable for lease or sale pursuant to the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4) and the land was segregated from appropriation under the public land laws and the general mining laws:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 11, lots 143 and 144.

The area described contains 10.00 acres, more or less.

On January 13, 1994, West Valley Assembly of God Church applied for use of the subject land pursuant to the Recreation and Public Purposes Act. The applicant was unsuccessful in obtaining the necessary zoning change allowing construction of a church.

Pursuant to section 7 of the Taylor Gazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of the Bureau of Land Management Manual 1203, the aforementioned Recreation and Public Purposes classification is hereby terminated.

At 10:00 a.m. on September 26, 1994 the above described land will become open to the operation of the public land laws generally, subject to existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules and regulations.

At 10:00 a.m. on September 26, 1994 the above described land will become open to the location under the United Stats mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to the operation of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4), and to leasing under the mineral leasing laws.

Ronald B. Wenker,

Acting State Director, Nevada.

[FR Doc. 94–23687 Filed 9–23–94; 8:45 am]

BILLING CODE 4310–HC–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-290 (Sub-No. 146X)]

Norfolk and Western Railway Company—Abandonment Exemption—In Raleigh County, WV

Norfolk and Western Railway Company (NW) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 4.3-mile line of railroad extending between milepost WG-29.3, at Whitby, and milepost WG-33.6, at Willabet, in Raleigh County, WV.

NW has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (3) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[1]

[1] Under 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Commission at least 50 days before the abandonment or discontinuance is to be consummated. The applicant, in its verified notice, indicated a proposed consummation date of October 24, 1994. Because the verified notice was not filed until September 6, 1994, consummation

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 26, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by October 6, 1994. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 17, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

NW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by September 30, 1994. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 13, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–23759 Filed 9–23–04; 8:45am]

BILLING CODE 7035–01–P

should not have been proposed to take place prior to October 26, 1994. Applicant's representative has confirmed that the correct consummation date is on or after October 26, 1994.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[3] See *Exempt of Rail Abandonment—Offers of Finan Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *W.R. Grace & Co.—Conn., Inc.*, Civil Action No. 93–96–M–CCL, was lodged on September 8, 1994 with the United States District Court for the District of Montana. The proposed consent decree resolves the United States' claims for W.R. Grace & Co.—Conn., Inc.'s alleged violation of the National Emissions Standards for the Hazardous Air Pollutant asbestos. In its amended complaint, the United States alleges that W.R. Grace & Co.—Conn., Inc. demolished eleven buildings at its former Libby, Montana vermiculite mine without complying with notification and work practice requirements designed to prevent the emission of asbestos fibers. The proposed consent decree requires W.R. Grace & Co.—Conn., Inc. to pay a civil penalty of $510,000 and to engage in a compliance program at its Construction Products facilities across the United States.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *W.R. Grace & Co.—Conn., Inc.*, DOJ Ref. #90–5–2–1–1834.

The proposed consent decree may be examined a the office of the United States Attorney, 100 North Park Avenue, First Floor, Helena, Montana; the Region VIII Office of the Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado; and at the Consent Decree Library, 1120 G Street, NW , 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section.

[FR Doc. 94–23686 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; The ATM Forum

Notice is hereby given that, on June 3, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The ATM Forum (the "ATM Forum") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members of ATM Forum are: Bull SA, Echirolles Cedex, FRANCE; ETRI-Electronics Telecommunications Research Institute, St. Louis, MO; IPC Information Systems, Stamford, CT; LSI Logic Corporation, Milpitas, CA; MFS Datanet Inc., Brussels, BELGIUM; Mitel Corporation, Kanata, CANADA; Network Communications Corporation, Bloomington, MN; Quality Semiconductor Inc., Santa Clara, CA; Racal-Datacom Inc., Sunrise, FL; SITA, Valbonne, FRANCE; Siecor Corporation, Hickory, NC; TTC, Germantown, MD; Telenorma GmbH, Frankfort, GERMANY; Telstra Research Laboratories, Clayton Vic., AUSTRALIA; Toshiba Corporation, Kawasaki, JAPAN; VTT Information Technologies, Espoo, FINLAND; Valor Electronics, San Diego, CA; Xerox Corporation, Palo Alto, CA; and Zeitnet Inc., Santa Clara, CA.

No changes have been made in the planned activities of ATM Forum. Membership remains open, and the members intend to file additional written notifications disclosing all changes in membership.

On April 19, 1993, ATM filed its original notification pursuant to Section

6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on February 16, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 28, 1994 (59 FR 21999).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–23696 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CAD Framework Initiative, Inc.

Notice is hereby given that, on June 3, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, these changes are as follows: (1) Electronic Tools Co., Sonoma, CA; and Engineering DataXpress, San Jose, CA, have joined as new Corporate Members; (2) Prem Jain, Austin, TX; and Andrew Scott, Kingston, Ontario, Canada, have joined as new individual members; (3) Intergraph Electronics; and Synopsys, Inc., have not renewed their Corporate Memberships; and (4) Petrotechnical Open Software Corporation has not renewed its membership in CFI.

On December 30, 1988, CFI filed its original notification pursuant to section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction notice was published on April 20, 1989 (54 FR 16013).

The last notification was filed with the Department on March 7, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 11, 1994 (59 FR 17117).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–23682 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on August 5, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the National Center for Manufacturing Sciences, Inc. ("NCMS"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies were recently accepted as active members of NCMS: Advanced Quality Systems, Inc., Loves Park, IL; Automated Quality Technologies, Inc. (dba Lion Precision), St. Paul, MN; Strategic Business Management Company, Oakbrook Terrace, IL; TYCOM Corporation, Irvine, CA; and Westinghouse Electric Corporation, Baltimore, MD. In addition, the following companies were recently accepted as affiliate members of NCMS: Indiana Business Modernization and Technology Corporation, Indianapolis, IN; National Association of Metal Finishers, Chicago, IL; Oregon Advanced Technology Consortium; Wilsonville, OR; South Carolina Research Authority, Columbia, SC; Southern Arkansas University Technical Branch, Camden, AR; and The Society of the Plastics Industry, Inc. (dba American Plastics Council), Washington, DC.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCMS intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, NCMS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on June 14, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 15, 1994 (59 FR 36218).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–23684 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Software Productivity Consortium

Notice is hereby given that, on August 8, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Software Productivity Consortium ("SPC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, P R B Associates, Inc., Arlington, VA; EER Systems Corporation, Vienna, VA; and Dual Inc. of Arlington, VA have been admitted as Small Business Members. CACI, Inc.—Federal of Arlington, VA has been admitted as a full member. Member Martin Marietta Inc.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SPC intends to file additional written notification disclosing all changes in membership.

On December 21, 1984, SPC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on September 23, 1993. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 18, 1993 (58 FR 60880).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–23685 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Switched Multi-Megabit Data Service Interest Group

Notice is hereby given that, on June 23, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Switched Multi-Megabit Data Service Interest Group ("the Group") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes to its membership. The notifications were

filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ascom Timeplex; British Telecom; GN Navtel; Digital Equipment Corporation; Hewlett-Packard; IMB; NYNEX; Network Communications; Southwestern Ball; QPSX Communications LTD; Telecom Australia; Tekelec; Telenex; and Verilink are no longer parties to the Group.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Group intends to file additional written notifications disclosing all changes in membership.

On April 19, 1991, the Group filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 23, 1991 (56 FR 23723). The last notification was filed with the Department on March 15, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 5, 1994 (59 FR 23235).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–23683 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

[INS No. 1668–94]

Notice on Elimination of Asylum Office Post Office Boxes

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice informs asylum applicants of the elimination of a Post Office Box as the mailing address for the Arlington and Miami Asylum Offices. The purpose of this notice is to advise asylum applicants that all mail and correspondence for these offices should be forwarded to the appropriate street address of these Asylum Offices.

FOR FURTHER INFORMATION CONTACT: Christine Davidson, Senior Policy Analyst, or Mark A. Curley, Asylum Officer, Office of International Affairs, Immigration and Naturalization Service (INS), 425 I Street, NW., Washington, DC 20536, Attn: ULLICO, Third Floor; Telephone (202) 633–4622.

EFFECTIVE DATE: September 26, 1994.

SUPPLEMENTARY INFORMATION: The Arlington and Miami Asylum Offices will eliminate Post Office Box numbers as mailing addresses for all correspondence that pertains to an asylum case pending in an Immigration and Naturalization Service (INS) Asylum Office. Effective with the publication of this notice, all correspondence intended for either the Miami or Arlington Asylum Offices should be mailed to the appropriate street address.

The elimination of the post office box addresses for the Arlington and Miami Asylum Office does not affect the current manner in which one applies for asylum in the United States. Asylum applicants are to submit their applications and supporting documents to the INS Service Center that serves the Asylum Office having jurisdiction over the applicant's place of residence.

Arlington Asylum Office

Effective upon publication of this notice, applicants are no longer to mail correspondence to P.O. Box 3599, Arlington, VA 22203–0599. All correspondence is to be mailed to the street address of the Arlington Asylum Office. That address is: 1500 Wilson Blvd., Lobby Level, Arlington, VA 22209.

Miami Asylum Office

Effective upon publication of this notice, applicants are no longer to mail correspondence to P.O. Box 351600, Miami, FL 33135–1600. All correspondence is to be mailed to the street address of the Miami Asylum Office. That address is: 701 S.W. 27th Ave., Suite 1400, Miami, FL 33135.

Dated: September 13, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94–23661 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–10–M

[INS No. 1665–94]

Notice on Circuit Ride Location Changes for Asylum Offices

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice informs asylum applicants of changes in certain interview locations. The purpose of this notice is to advise certain asylum applicants that they will be scheduled for an interview at the Immigration and Naturalization Service (INS) Asylum Office having jurisdiction over their place of residence, rather than having an interview conducted on a circuit ride.

FOR FURTHER INFORMATION CONTACT: Christine Davidson, Senior Policy Analyst, or Mark A. Curley, Asylum Officer, Office of International Affairs, Immigration and Naturalization Service (INS), 425 I Street, NW., Washington, DC 20536, Attn: ULLICO, Third Floor; Telephone (202) 633–4622.

EFFECTIVE DATE: September 26, 1994.

SUPPLEMENTARY INFORMATION: In 1991, the INS established seven Asylum Offices, in: Arlington, VA; Chicago, IL; Houston, TX; Los Angeles, CA; Miami, FL; Newark, NJ; and San Francisco, CA. These offices are situated close to where the majority of asylum applicants reside.

The vest majority of asylum interviews are conducted at the Asylum Office sites. Asylum Officers periodically visit Ports-of-Entry and District and file control offices that are more than 300 miles from the Asylum Office site in order to interview asylum applicants. Since 1991, and depending upon the number of asylum applications received [receipts], Asylum Officers have also conducted interviews on their circuit rides at locations within the 300-mile radius mentioned above.

Effective with this publication, the Asylum Office Directors intend only to schedule circuit rides to INS District or file control offices and Ports-of-Entry more than 300 miles from the Asylum Office site. If an interview site at the INS District or file control office or Port-of-Entry is within 300 miles of the Asylum Office site having jurisdiction over the applicant's place of residence, the applicant's interview will be scheduled at the local INS Asylum Office. Interviews that have already been scheduled to take place on a circuit ride and that are within the 300 mile radius of the Asylum Office will not be affected by this notice and will be conducted as scheduled.

The effect of having an interview scheduled at the INS Asylum Office rather than on a circuit ride is threefold: (1) Asylum Office Directors will be able to increase the number of available interview slots within a given month; (2) asylum applicants will be able to have an interview scheduled more expeditiously; and (3) asylum applicants will be able to receive a more timely adjudication of their claim.

Arlington Asylum Office

Effective upon publication of this notice, applicants who reside in North Carolina or within the jurisdiction of the INS suboffice in Pittsburgh, PA, will have their interviews conducted at the Arlington Asylum Office. Applicants who reside in South Carolina, Georgia,

and Alabama will have their interviews conducted on a circuit ride to Atlanta, GA.

The Arlington Asylum Office is located at 1500 Wilson Blvd., Lobby Level, Arlington, VA 22209.

Chicago Asylum Office

Effective upon publication of this notice, applicants who reside in Michigan, including the upper peninsula, will have their interviews conducted at the Chicago Asylum Office.

The Chicago Asylum Office is located at 209 South LaSalle Street, Suite 625, Chicago, IL 60604.

Houston Asylum Office

Effective upon publication of this notice, applicants who reside within the jurisdiction of the INS District Offices of San Antonio, TX; Harlingen, TX; New Orleans, LA; and Dallas, TX, will have their interviews conducted at the Houston Asylum Office. Applicants who reside within the jurisdiction of the INS District Office in El Paso will have their inverviews conducted on a circuit ride to El Paso.

The Houston Asylum Office is located at 509 North Belt Street, 4th Floor, Houston, TX 77060.

Los Angeles Asylum Office

Effective upon publication of this notice, applicants who reside within the jurisdiction of the INS suboffice in Las Vegas, NV, or within the jurisdiction of the INS District Office in San Diego, CA, will have their interviews conducted at the Los Angeles Asylum Office.

The Los Angeles Asylum Office is located at 290 South Anaheim Blvd., Anaheim, CA 92805.

Miami Asylum Office

Effective upon publication of this notice, applicants who reside within the jurisdiction of the INS suboffice in Tampa, FL, will have their interviews conducted at the Miami Asylum Office.

The Miami Asylum Office is located at 701 S.W. 27th Ave., Suite 1400, Miami, FL 33135.

Newark Asylum Office

Effective upon publication of this notice, applicants who reside in the State of Connecticut will have their interviews conducted at the Newark Asylum Office. The Newark Asylum Office will continue to circuit ride to the interview sites of Boston MA; Buffalo, NY; Portland, ME; and St. Albans, VT.

The Newark Asylum Office is located at 20 Washington Place, 6th Floor, Newark, NJ 07102.

San Francisco Asylum Office

Effective upon publication of this notice, applicants who reside within the jurisdiction of the INS suboffice in Fresno, CA, will have their interviews conducted at the San Francisco Asylum Office.

The San Francisco Asylum Office is located at 75 Hawthorne Street, 3rd Floor, South Wing, San Francisco, CA 94105.

All asylum applicants affected by this change in the location of circuit rides will be notified of the proper location of the interview in the "Interview Notice" from the Asylum Office. Questions regarding interviews should be directed to the appropriate Asylum Office having jurisdiction over the applicant's place of residence.

Dated: September 13, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94–23662 Filed 9–23–94; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Glass Ceiling Commission; Closed Meeting

SUMMARY: Pursuant to section 10(a) of FACA, this is to announce a meeting of the Glass Ceiling Commission which is to take place on Wednesday, October 5, 1994. The meeting will take place by teleconference.

TIME AND PLACE: The closed meeting by teleconference will be held on October 5, 1994, from 1:00 p.m. to 1:30 p.m. (Eastern Standard Time).

The Commission will meet in closed session in order to discuss commercial characteristics of applicants for the Frances Perkins-Elizabeth Hanford Dole Award. The closing of this meeting by teleconference is authorized by section 10(d) of the Federal Advisory Committee Act and Section (c)(4) of the Government in the Sunshine Act (5 U.S.C. 552b(c)(4)). This closing allows the Commission to discuss matters which if disclosed in an open meeting would reveal information that would not customarily be released to the public by the applicants.

FOR FURTHER INFORMATION CONTACT: Ms. René Redwood, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C–2313, Washington, DC 20210, (202) 219–7342.

Signed at Washington, DC this 20th day of September, 1994.

Robert B. Reich,

Secretary of Labor

[FR Doc. 94–23724 Filed 9–23–94; 8:45 am]

BILLING CODE 4510–23–M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Full Committee Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act, will meet on October 18–19, 1994, in Room N3437 A–D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. The meeting is open to the public and will begin at 8:30 a.m. each day.

Agenda items will include overviews of activities of both the Occupational Safety and Health Administration (OSHA) and the National Institute for Safety and Health (NIOSH). Presentations will also be made on the following subjects: OSHA's consultation and voluntary programs, comprehensive safety and health programs, workplace violence and a panel discussion on the effective use of data. The second afternoon will be devoted to workgroups related to: (1) Workplace violence, (2) data and (3) new strategies. These working sessions will be closed to the public, but all activities will be reported at the next public meeting on November 30.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify Joanne Goodell before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak to the extent time permits, at the discretion of the Chair of the Advisory Committee. Individuals with disabilities who need

special accommodations should contact Tom Hall by October 13 at the address indicated below.

An official record of the meeting will be available for public inspection through the Tom Hall, Division of Consumer Affairs, Room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210, telephone 202–219–8615.

For additional information contact: Joanne Goodell, Directorate of Policy, Occupational Safety and Health Administration, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210, telephone 202–219–8021.

Signed at Washington, D.C. this 19th day of September, 1994.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 94–23723 Filed 9–23–94; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (94–073)]

NASA Advisory Council; Task Force on Shuttle-Mir Rendezvous and Docking Missions; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Task Force on Shuttle-Mir Rendezvous and Docking Missions.

DATES: October 11, 1994, 3 p.m. to 5:30 p.m. and October 12, 1944, 7:30 a.m. to 6:00 p.m.

ADDRESSES: The National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Building 1, Room 945, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Vantine, Code M, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1698.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

Review the upcoming Shuttle-Mir missions from the following perspectives: training, operations, rendezvous and docking.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 20, 1994.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 94–23734 Filed 9–23–94; 8:45 am]

BILLING CODE 7510–01–M

NASA FAR Supplement (NFS); Availability in Electronic Form

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: The National Aeronautics and Space Administration is announcing the availability of the NASA FAR Supplement in electronic form in order to satisfy requests for an electronic copy of the publication. With appropriate software, users will be able to search the copy using keywords.

ADDRESSES: Requests for NFS Version 89.16 should be sent by electronic mail addressed to: dbeck@proc.hq.nasa.gov

FOR FURTHER INFORMATION CONTACT: Dave Beck (202) 358–0482.

SUPPLEMENTARY INFORMATION: Under 42 U.S.C. 2473(c)(1), notice is given that NFS Version 89.16, effective September 30, 1994, is available in WordPerfect 5.1. For as long as we can accommodate requests, a copy will be sent by e-mail, without charge, to anyone sending an e-mail request. We are supplying the NFS by e-mail until we place the NFS on Internet.

The electronic copy contains the text that is used to produce the loose-leaf version of the NFS. The NFS is also published in 48 CFR Chapter 18. Efforts are made to minimize the differences between the loose-leaf version and 48 CFR Chapter 18. However, neither the electronic copy nor the loose-leaf version are a substitute for the Code of Federal Regulations or the **Federal Register.**

The copy supplied by e-mail will be a compressed file of 964 kilobytes along with shareware (pkunzip.exe, 30 kilobytes) for decompressing the file. When the file is "unzipped" it becomes 122 WordPerfect 5.1 files (plus a README file) totalling 3 megabytes. Persons using WordPerfect 5.1, or software capable of converting from WordPerfect 5.1, should be able to search the text of the 122 files using keywords.

(Caution: When converted to ASCII, some text and most tables are difficult to read. We will try to improve later versions of the NFS to eliminate this problem.)

Tom Luedtke,

Deputy Associate Administrator for Procurement.

[FR Doc. 94–23772 Filed 9–23–94; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on October 6–8, 1994, in Conference Room T2B3, 11545 Rockville Pike, Rockville, Maryland. The dates for this meeting were published in the **Federal Register** on Friday, August 22, 1994.

Thursday, October 6, 1994

8:30 A.M.–8:45 A.M.: Opening Remarks by the ACRS Chairman (Open)

The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 A.M.–10:45 A.M.: NRC Test Programs in Support of the AP600 and SBWR Design Certification (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the management and status of the NRC test programs being conducted at the ROSA–V and PUMA test facilities. Representatives of the industry will participate, as appropriate.

11:00 A.M.–12:30 P.M.: Proposed Revision 2 to Regulatory Guide 1.82, Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed Revision 2 to Regulatory Guide 1.82. Representatives of the industry will participate, as appropriate.

1:30 P.M.–2:30 P.M.: Reactor Vessel Structural Integrity (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding materials data acquisition associated with reactor vessel structural

integrity. Representatives of the industry will participate, as appropriate.

2:30 P.M.–5:00 P.M.: Meeting With the Director, Office for Analysis and Evaluation of Operational Data (AEOD) (Open)

The Committee will meet with the Director of AEOD to discuss items of mutual interest, including the NRC Technical Training Program.

Friday, October 7, 1994

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)

The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 A.M.–9:45 A.M.: Rod Control System Single Failure Potential (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the rod control system single failure event at Salem Unit 2, the findings of the Augmented Inspection Team (AIT), licensee responses to Generic Letter 93–04, and the staff's actions. Representatives of the industry will participate, as appropriate.

10:00 A.M.–11:30 A.M.: IPE Insights Program (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the IPE Insights Program.

11:30 A.M.–12:15 P.M.: Report of the P&P Subcommittee (Open/Closed)

The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business and internal organizational and personnel matters relating to the ACRS staff members.

A portion of this session may be closed to discuss matters that relate solely to internal personnel rules and practices of this Advisory Committee, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

1:15 P.M.–1:45 P.M.: Future ACRS Activities (Open)

The Committee will discuss topics proposed for consideration during future ACRS meetings.

1:45 P.M.–2:00 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)

The Committee will discuss responses from the NRC Executive Director for Operations to ACRS comments and recommendations included in recent ACRS reports.

2:00 P.M.–3:00 P.M.: Selection of New ACRS Members (Open/Closed)

The Committee will discuss qualifications of candidates nominated for appointment to the ACRS.

A portion of this session will be closed to discuss matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

3:15 P.M.–4:15 P.M.: Strategic Planning (Open)

The Committee will hold strategic planning discussions related to its future activities.

4:15 P.M.–6:30 P.M.: Preparation of ACRS Reports (Open)

The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Saturday, October 8, 1994

8:30 A.M.–11:00 A.M.: Preparation of ACRS Reports (Open)

The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

11:15 A.M.–11:45 A.M.: New Research Needs (Open)

The Committee will discuss new research needs, if any, identified during this meeting.

11:45 A.M.–12:00 Noon: Miscellaneous (Open)

The Committee will discuss miscellaneous matters related to the conduct of Committee activities and complete discussions of topics that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 30, 1993 (58 FR 51118). In accordance with these procedures, oral or written statements may be presented my members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only my members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Dr. John T. Larkins, at least five days before the meeting if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting noted above to discuss information that involves the internal personnel rules and practices of this advisory Committee per 5 U.S.C. 552(c)(2); and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the ACRS Executive Director, Dr. John T. Larkins (telephone 301–415–7361), between 7:30 A.M. and 4:15 P.M. EST.

Dated: September 20, 1994.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 94–23755 Filed 9–23–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–160]

Georgia Institute of Technology; Consideration of Application for Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–97, issued to the Georgia Institute of Technology (Georgia Tech or the licensee) for operation of the Georgia Tech Research Reactor located on the Georgia Tech campus in the city of Atlanta, Fulton County, Georgia.

The renewal would extend the expiration date of Facility License No. R–97 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated April 19, 1994.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Within thirty days of publication of this notice, the licensee may file a request for a hearing with respect to renewal of the subject facility license

and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document room, the Gelman Building, 2120 L Street NW., Washington, DC 20037. If a request for a hearing or petition for leave to intervene is filed within the time prescribed above, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding;

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding; and

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehering conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion and the petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the pportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC within the time prescribed above. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss: petitioner's name and telephone number; date petition was mailed; Georgia Institute of Technology; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Randy A. Nordin, Manager, Legal Division, Office of Contract Administration, Georgia Tech, Atlanta, GA 30332–0420, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated April 19, 1994, which is available for public inspection at the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 19th day of September 1994.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 94–23756 Filed 9–23–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–352 and 50–353]

Philadelphia Electric Company; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NFP–39 and NPF–85, issued to Philadelphia Electric Company (the licensee), for operation of the Limerick Generating Station, Units 1 and 2, located in Montgomery County, Pennsylvania.

The proposed amendment would revise the Technical Specifications to permit an increase in the allowable leak rate for the main steam isolation valves (MSIVs), and delete the MSIV Leakage Control System (LCS). The main steam drain lines and the main condenser would be utilized as an alternate MSIV leakage treatment system.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 26, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request

for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding;

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding; and

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specifically requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specifics sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call of Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mohan C. Thadani, Acting Project Director: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to J.W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a future notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 14, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Rockville, Maryland, this 20th day of September 1994.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–23757 Filed 9–23–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cost Principles for Non-Profit Organizations

AGENCY: Office of Management and Budget.

ACTION: Proposed Revision to OMB Circular A–122.

SUMMARY: This Notice is a corrected version of the Notice previously printed on September 16, 1994 (59 FR 47657). This corrected version contains additional text under "Supplementary Information." This Notice offers interested parties an opportunity to comment on a proposed revision to Office of Management and Budget (OMB) Circular A–122, "Cost Principles for Non-Profit Organizations." The revision will allow Federal agencies to reimburse non-profit organizations for interest on debt used to finance the purchase of buildings and equipment, when purchasing using debt financing is less costly than leasing.

DATES: All comments on this proposal should be in writing and must be received by November 25, 1994.

ADDRESSES: Office of Management and Budget, Office of Federal Financial Management, Financial Standards and Reporting Branch, Room 6025, New Executive Office Building, Washington, DC 20503. Telephone (202) 395–3993, Facsimile (202) 395–3952.

FOR FURTHER INFORMATION CONTACT: Linda Hoogeveen, Financial Standards and Reporting Branch, Office of Federal Financial Management. Telephone (202) 395–3993.

SUPPLEMENTARY INFORMATION: The purpose of this revision is to: (1) Encourage non-profit organizations to acquire building space and equipment necessary for administering Federal programs at the lowest possible cost to the Federal Government, and (2) bring greater consistency to Federal policies covering the allowability of interest by organizations receiving Federal awards.

As the Office of Management and Budget (OMB) stated in 1980, it had been "a longstanding policy not to recognize interest as a cost" (45 FR 46022, 46023, July 8, 1980). Accordingly, the OMB circulars setting forth the cost principles for State and local governments, educational institutions, and non-profit organizations did not originally allow interest as an expense. Over time, however, OMB has gradually expanded the allowability of interest.

The first change was made with respect to State and local governments. In 1980, Circular 74–4, "Cost Principles for Grants to States and Local Governments," was revised to allow interest on buildings, but not on equipment (45 FR 27363, April 22, 1980). This policy was retained when Circular 74–4 was reissued the following year as revised OMB Circular A–87 (46 FR 9548, January 28, 1981).

OMB then revised the policy with respect to educational institutions. In 1982, Circular A–21, "Cost Principles for Educational Institutions," was revised to allow interest for both buildings and equipment (47 FR 33658, August 3, 1982).

OMB has since revisited the policy with respect to State and local governments. In 1988 and 1993, OMB proposed to revise Circular A–87 to allow interest on equipment, as well as on buildings (53 FR 40352, October 14, 1988; 58 FR 44212, August 19, 1993). OMB expects to issue a notice shortly that would make final revisions to Circular A–87.

OMB is now proposing to change the policy with respect to non-profit organizations. In this notice, OMB proposes to revise Circular A–122, "Cost Principles for Non-Profit Organizations," so that interest would be allowed for both buildings and equipment. Based on OMB's experience under the three cost principles circulars, OMB believes that the proposal would result in lower costs to the Federal Government. In addition, this proposal would result in greater consistency on the allowability of interest across the three cost principles circulars.

During the last few years, OMB has received a number of requests for waivers from Circular A–122's prohibition on the allowability of interest. As a result of reviewing the individual waiver requests, and based on the general experience gained under Circulars A–87, A–21, and A–122, OMB believes that allowing interest should encourage non-profit organizations to purchase rather than lease facilities in those situations where purchasing would result in lower costs than leasing. Consequently, OMB has decided to propose revising Circular A–122's interest policy.

This proposed revision to Circular A–122 would establish four criteria that must be met for interest to be an allowable cost. These criteria are intended to encourage decisions beneficial to the non-profit organization and the Federal Government. First, the non-profit organization must perform a lease/purchase analysis which shows that purchasing through debt financing is less costly to the Federal Government than leasing. Second, financing is provided at an interest rate no higher than the fair market rate. Third, investment earnings are used to offset allowable interest cost. Fourth, when it is expected that the Federal Government will reimburse 51 percent or more of an asset's cost, the non-profit organization must demonstrate the need for the asset in the conduct of federally sponsored activities. The fourth criterion is in addition to that which applies to State and local governments (Circular A–87) and educational institutions (Circular A–21).

OMB believes that the first and fourth criteria are especially important in the context of grants to non-profit organizations. As a general rule, the Federal Government contributes a small share of the costs of assets purchased by State and local governments and educational institutions. Since those entities must themselves fund the majority of the costs associated with acquiring an asset, they have an incentive to make the most economical lease/purchase decision. In contrast, for non-profit organizations covered by Circular A–122, the Federal share of costs is often substantial. Since this greater Federal share could decrease the incentive for non-profit organizations to make the most economical lease/purchase decisions, these additional criteria are designed to ensure that a non-profit's decision to purchase rather than lease is based on an assessment of the relative costs of leasing versus purchasing, and a demonstrated need for the asset (where the Federal Government will reimburse over half the asset's cost).

The revised policy would apply only to assets acquired after its final issuance.

OMB requests comments on all aspects of this proposal.

John B. Arthur,

Associate Director for Administration.

The following paragraph is proposed to replace paragraph 19.a of Attachment A to Circular A–122:

19. Interest, fund raising, and investment management costs.

a. Interest.

(1) Interest on debt is unallowable unless:

(a) The non-profit organization performs a lease/purchase analysis in accordance with the provisions of OMB Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," and OMB Circular A–94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs," sections 5a, 8(c)(2), and 13, which shows that purchasing through debt financing is less costly to the Federal Government than leasing. Discount rates used should be equal to the grantee's borrowing rates, to be consistent with Circular A–94's intent to reflect the entity's cost of financing. The financial analysis must include a comparison of the present value of the projected total cash flows of both alternatives over the period the asset is expected to be used by the non-profit organization in carrying out federally sponsored activities. The cash flows associated with purchasing the asset must include the purchase price, anticipated operating and maintenance costs (including property taxes, if applicable) not included in the debt financing, less any estimated asset salvage value at the end of the period defined above. Projected rental costs should be based on the anticipated cost of renting comparable facilities or equipment at fair market rates over the period defined above, and any expected maintenance costs and property taxes to be borne by the non-profit organization

directly or as part of the lease arrangement.

(b) Financing is provided at an interest rate no higher than the fair market rate.

(c) Investment earnings, including interest, on bond or loan principal, pending payment of the construction or acquisition costs, are used to offset allowable interest cost. Arbitrage earnings reportable to the Internal Revenue Service are not required to be offset against allowable interest costs.

(d) Where the Federal Government's reimbursement is expected to equal or exceed 51 percent of an asset's cost, the non-profit organization conducts an assessment that demonstrates the need for the asset in the conduct of federally sponsored activities. For assets costing in excess of $10 million, the needs assessment must be approved in advance by the cognizant Federal agency as a prerequisite to the allowability of depreciation and interest on debt related to the facility. For assets costing less than $10 million, the needs assessment must be maintained on file for review by the Federal Government.

(2) Interest on debt issued to finance or refinance assets acquired before or reacquired after the effective date of this policy is not allowable.

(3) Federal cognizant agencies shall require non-profit organizations to compute interest on the excess of the depreciation and interest reimbursement over the bond principal and interest payments, and that the organizations treat the computed interest as a reduction in the interest expense to be reimbursed by the Federal Government. This provision is not applicable in instances where the non-profit organization makes an initial equity contribution of 25 percent or more to purchase the asset(s).

(4) Substantial relocation of federally sponsored activities from a facility financed by indebtedness, the cost of which was funded in whole or part through Federal reimbursements, to another facility prior to the expiration of the useful life of the facility requires Federal cognizant agency approval. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation charged to date may require negotiation of space charges for Federal programs.

[FR Doc. 94-23697 Filed 9-23-94; 8:45 am]

BILLING CODE 3110-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-34688; International Series Release No. 716; File No. SR-CBOE-94-31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Substituting Component Securities of the CBOE Mexico Index.

September 20, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on September 2, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE seeks authority to replace one component security in the CBOE Mexico Index ("Mexico Index" or "Index"), with a closed-end country fund. The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Mexico Index, on which options are currently traded on the Exchange, is composed of stocks and American Depositary Receipts ("ADRs") representing ten Mexican companies.[3] The Index meets the generic criteria for listing options set forth in CBOE Rule 24.2. The Exchange is not proposing that the Commission grant the Exchange the authority to replace a component security in the Index with the Mexico Fund, a closed-end fund consisting of Mexican securities, if the Exchange decides that such a substitution is necessary or desirable. The CBOE will not replace any component security with the Mexico Fund unless after such substitution the Index will continue to meet the initial listing and maintenance criteria specified in CBOE Rule 24.2. The purpose of such a substitution would be to make the Index more attractive to investors and to facilitate hedging of the Index by substituting a more liquid component.

The Exchange expects that the substitution of the Mexico Fund for a component security in the Index could achieve these purposes for at least two reasons. First, the CBOE believes, the Index will become more representative of the Mexican economy because the Mexico Fund is composed of numerous Mexican securities representative of diverse sectors of the Mexican economy. Second, the Exchange believes, the substitution will enhance liquidity of the components of the Index to the extent that the Mexico Fund replaces a component security that maintains a lower monthly trading volume. Based on average monthly trading through August 31, 1994, the Exchange represents that the Mexico Fund has historically experienced a greater monthly trading volume than at least half of the component securities that currently comprise the Index.

Although the Mexico Fund is not currently eligible for equity options, it meets all criteria that component securities of the Index are required to satisfy. First, the Mexico Fund had a market value of $1,187,567,000 as of August 1, 1994, which is far in excess of the initial listing and maintenance criterion requiring minimum market capitalization of at least $75,000,000. Also, the Mexico Fund had average monthly trading volume of 5.4 million shares for the six month period through July 1994. The monthly trading volume did not drop below 2.8 million shares during that period.

The substitution of the Mexico Fund for a component security in the Index

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] The Mexico Index is a narrow-based, equal dollar-weighted index. See Securities Exchange Act Release No. 34241 (June 22, 1994) 59 FR 33557 (June 29, 1994).

would also be consistent with the initial listing and maintenance criterion that no component security of the Index account for in excess of 25% of the weight of the Index. Even though the Mexico Fund may contain common stocks and ADRs that are also components of the Index, because the Index is equal dollar-weighted, the Mexico Fund will comprise 10% of the weight of the Index immediately following each quarterly rebalancing of the Index. As a result, even if it were possible for the Mexico Fund to consist entirely of another Index component security, that component security could at most constitute 20% of the weight of the Index immediately following each quarterly rebalancing of the Index, below the 25% specified in the initial listing and maintenance criteria for the Index.

Finally, the Exchange will not substitute the Mexico Fund for a component security of the Index unless securities representing at least 90% of the Index by weight and 80% of the Index by number of components will continue to be eligible for the trading of equity options under CBOE Rule 5.3, as required by the initial listing and maintenance criteria for the Index. The Mexico Fund currently is not eligible for the trading of equity options. Because one component of the Mexico Fund, Grupo Financiero Serfin SA de CV ("Grupo Serfin") also is not options eligible, in order to remain in compliance with the listing standards, the Exchange presently could substitute the Mexico Fund only for Grupo Serfin. If in the future, however, Grupo Serfin or the Mexico Fund become options eligible, the Exchange could substitute the Mexico Fund for another component security and remain in compliance with the maintenance standards for the Index.

Finally, the substitution of the Mexico Fund for a component security of the Index would not impact the Index criterion limiting the number of foreign securities or American Depositary Receipts that are components of the Index because the Mexico Fund is listed on the New York Stock Exchange, which is the primary market for the fund shares.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, foster cooperation and coordination with persons facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE.

All submissions should refer to File No. SR–CBOE–94–31 and should be submitted by October 17, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23758 Filed 9–23–94; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b)(5) (1988).

[5] 17 CFR 200.30–3(a)(12) (1993).

[Rel. No. IC–20562; File No. 812–8974]

Massachusetts Mutual Life Insurance Company, et al.

September 19, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act" or "Act").

APPLICANTS: Massachusetts Mutual Life Insurance Company ("MassMutual"), MML Bay State Life Insurance Company ("MML Bay State"), Massachusetts Mutual Variable Annuity Separate Account 3 ("Separate Account 3"), MML Bay State Variable Annuity Separate Account 1 ("Separate Account 1") (Separate Account 3 and Separate Account 1, collectively, the "Separate Accounts"), and MML Investors Services, Inc. ("MMLISI") (MassMutual, MML Bay State, the Separate Accounts, and MMLISI, collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from Section 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an Order to permit the deduction of a mortality and expense risk charge and enhanced death benefit expense charge in connection with the offer and sale of certain flexible premium variable annuity contracts to be funded by the Separate Accounts ("Contracts").

FILING DATE: The Application was originally filed on May 6, 1994, and Amendment No. 1 to and Restatement of the Application was filed on June 20, 1994.

HEARING OR NOTIFICATION OF HEARING: An Order granting the Application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving the Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on October 14, 1994, and should be accompanied by

proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants: William D. Wilcox, Esq., Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, MA 01111; and Michael Berenson, Esq., Jorden Burt Berenson & Klingensmith, Suite 400 East, 1025 Thomas Jefferson Street, NW., Washington, DC 20007–0805.

FOR FURTHER INFORMATION CONTACT: W. Thomas Conner, Attorney, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the Application. The complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. MassMutual is a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts. MML Bay State is a life insurance company organized under the laws of the State of Missouri and is a wholly-owned subsidiary of MassMutual. MMLISI is the principal underwriter of the Contracts and also is a wholly-owned subsidiary of MassMutual.

2. Separate Account 3 was established on January 12, 1994 to fund Contracts issued by MassMutual. Separate Account 1 was established on January 14, 1994 to fund Contracts issued by MML Bay State. Each Separate Account is registered as a unit investment trust under the 1940 Act.

3. The Separate Accounts will be used for the purpose of investing purchase payments received under the Contracts. The Contracts require certain minimum initial payments and permit additional flexible purchase payments. A Contract owner may, after deductions of applicable charges, direct allocation of purchase payments among the various divisions of the Separate Accounts. Additionally, both MassMutual and MML Bay State will make available, in a limited number of states, a flexible account (the "Fixed Account") to which purchase payments may be allocated. The Fixed Account will include a market value adjustment feature. Each Separate Account has filed a registration statement on Form N–4 with the Commission in connection with the Contracts.

4. Each Separate Account is divided into twelve divisions. Each division invests in corresponding shares of either MML Series Investment Trust or Oppenheimer Variable Account Funds (collectively, the "Trusts"). The Trusts are registered with the SEC as diversified open-end management investment companies.

5. The Contracts provide for certain charges. An administrative charge is assessed annually and upon the surrender or the payment of a death benefit under the Contracts. The administrative charge will be waived if a Contract's accumulated value is at least $50,000 as of the date of assessment. The administrative charge currently is $30 per year and will not be increased above $50 per year.

6. In addition to the $30 annual administrative charge, an annual administrative charge equal to 0.15% of the assets of each Separate Account will be deducted for administrative charges (the $30 annual administrative charge and the 0.15% annual administrative charge, collectively, the "administrative charges"). The administrative charges are intended to reimburse MassMutual or MML Bay State for expenses related to the maintenance of the Contracts and for operation of the Separate Accounts in connection with the Contracts. Applicants represent that these fees are based on current estimates by MassMutual and MML Bay State of administrative costs for these services over the lifetime of the Contracts. These charges are guaranteed never to be increased beyond stated maximums during the term of a Contract, and such fees are neither designed nor expected to generate a profit. Applicants rely on Rule 26a-1 under the 1940 Act to assess such fees.

7. While no sales charges are deducted when premium payments are received, the Contracts are subject to a schedule of contingent deferred sales charges ("sales charge"). A sales charge may be imposed upon full or partial redemptions, upon maturity of the Contract, and upon certain death benefits. Sales charges are based on the purchase payments made and the time that has passed since receipt of such payment. The part of the sales charge related to a purchase payment is a level percentage of that payment depending on the years that have passed since the purchase payment was received. During the first year since payment, the sales charge is 7 percent. For each successive year, the sales charge decreases 1 percent until it becomes zero in the eighth year. The amount deducted for sales charges at any time, plus any sales charges previously deducted, will not be more than 7% of the total purchase payments made to that time. In addition, during each Contract year, a Contract owner may redeem the following amounts without incurring a sales charge: (1) All unredeemed purchase payments that are at least seven years old, and (2) 10% of the unredeemed purchase payments that are less than seven years old.

8. An annual charge will be assessed against the assets of each Separate Account for mortality and expense risks assumed by MassMutual or MML Bay State. The mortality and expense risk charge currently is 1.15% and will not be increased above 1.25%. Of the current 1.15% mortality and expense risk charge, 0.30% is for the mortality risk assumed and 0.85% is for the expense risk assumed.

9. MassMutual and MML Bay State will assume mortality risks under the Contracts by their contractual obligation to make periodic payments in accordance with annuity rates and other Contract provisions regardless of how long an annuitant might live. This obligation assures each annuitant that neither the annuitant's own longevity nor an improvement in life expectancy generally will have an adverse effect on the payments received under the Contracts.

10. MassMutual and MML Bay State will assume expense risks under the Contracts by their contractual obligation to administer the Contracts even if the administrative charges are insufficient to cover the administrative expenses associated with the Contracts.

11. An annual charge of 0.10% will be assessed against the assets of each Separate Account to reimburse MassMutual and MML Bay State for bearing the risks associated with providing certain enhanced death benefits under the Contracts. A death benefit is paid upon the death of either the Contract owner or the annuitant. If an owner and annuitant are the same, the death benefit paid will be the annuitant death benefit.

If the Contract owner dies before the maturity date of the Contract, the beneficiary named in the Contract will receive the cash redemption value of the Contract. If the annuitant dies before the maturity date of the Contract, the beneficiary named in the Contract will receive the greater of two enhanced death benefits, depending on the Contract owner's state.

Under the first alternative, if the annuitant dies before the maturity date, the beneficiary named in the Contract

will receive the greater of: (a) The total of all purchase payments made to the Contract, less all partial redemptions, accumulated at 5% to the annuitant's 75th birthday and 0% thereafter, but not more than two time purchase payments less redemptions; or (b) the accumulated value of the Contract less any applicable administrative charge (and any sales charge, if the annuitant's age on the Contract date exceeds 75).

The death benefit described above may not be available in certain states for annuitants whose issue age is less than 76. In those instances, the death benefit during the first three years will be equal to the greater of: (a) The total of all purchase payments made to the Contract less all partial redemptions; or (b) the accumulated value of the Contract less any applicable administrative charge. During any subsequent three Contract year period, the death benefit will be the greater of: (a) The death benefit on the last day of the previous three Contract year period plus any purchase payments made less all partial redemptions since then; or (b) the accumulated value of the Contract less any applicable administrative charge.

12. MassMutual and MML Bay State currently will permit a Contract owner to make up to 14 transfers among the divisions of the Separate Accounts (and the Fixed Account if available) each Contract year without charge during the accumulation period of the Contracts. Transfers in excess of 14 will result in the imposition of a $20 fee. MassMutual and MML Bay State reserve the right to change the number of transfers that may be made without charge. The Contracts provide, however, that the number of transfers that may be made without incurring a charge will be at least four per Contract year during the accumulation period. Amounts applied under a variable payment option during the payout period may be transferred once every 90 days. MassMutual and MML Bay State reserve the right to change transfer limitations.

13. Premium taxes ranging up to 3.5% of purchase payments are imposed by certain municipalities and states. Under current practice, MassMutual and MML Bay State will deduct amounts owned for premium taxes from a Contract's accumulated value at annuitization, maturity, or full surrender. Both MassMutual and MML Bay State have reserved the right to deduct amounts owned for premium taxes from premium payments.

Applicants' Legal Analysis

1. Sections 26(a)(2)(C) and 27(c)(2) taken together are intended to provide for the protection of the assets of investment companies that issue periodic payment plan certificates. Section 27(c)(2) of the Act prohibits the issuer of a periodic payment plan certificate and any depositor or underwriter for such periodic payment plan certificate from selling such certificates unless all proceeds of payments on such certificates (other than any sales load) are deposited with a qualified bank acting as trustee or custodian, and held under an indenture or agreement containing specified provisions. Section 26(a) of the Act requires that such indenture or custodian agreement must provide, among other things that such bank shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services of a character normally performed by the bank itself.

2. Applicants request an order under Section 6(c) of the 1940 Act exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the mortality and expense risk charge and the enhanced death benefit charge from the assets of the Separate Accounts in connection with the issuance by MassMutual and MML Bay State of the Contracts to the funded by the Separate Accounts.

3. Applicants represent that the guaranteed mortality and expense risk charges of 1.25% are reasonable in relation to the risks assumed by MassMutual and MML Bay State under the Contract and are reasonable in amount as determined by industry practice with respect to comparable annuity products. Applicants represent that the 1.25% mortality and expense risk charge is within the range of industry practice for comparable annuity contracts issued by other insurance companies. This representation is based on MassMutal's and MML Bay State's analysis of publicly available information about such other contracts, taking into consideration such factors as current charge levels, the manner in which charges are imposed, guarantees of charge levels or annuity rates, and the markets in which the Contracts will be offered. Applicants undertake to maintain at MassMutual's home office and MML Bay State's principal office and to make available to the Commission (or its staff) upon request, memoranda setting forth in detail the products analyzed, the methodology used, and the results of their respective comparative reviews.

4. Applicants acknowledge that the withdrawal charges under the Contracts may be insufficient to cover all costs relating to the distribution of the Contracts. In such circumstances, the charges for mortality and expense risk may be a source of the profit that would be available to pay MassMutual's and/or MML Bay State's distribution expenses not reimbursed by applicable sales charges. MassMutual and MML Bay State have concluded that there is a reasonable likelihood that the proposed distribution financing agreements benefit both the Separate Accounts and the Contract owners. The basis for this conclusion is set forth in memoranda that will be maintained by MassMutal and MML Bay State at their home office and principal office, respectively. These memoranda will be available to the Commission (or its staff) upon request.

5. Applicants represent that the Separate Accounts will invest only in management investment companies that undertake, in the event the company adopts a plan to finance distribution expenses under Rule 12b–1 under the 1940 Act, to have a board of directors, a majority of whom are not interested persons of the company within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any such plan.

6. Applicants assert that the mortality risk charge of 0.10% for the enhanced death benefits offered is reasonable in relation to the risks assumed by MassMutual and MML Bay State under the Contracts. In arriving at this determination, MassMutual and MML Bay State conducted a large number of trials at various issue ages to determine the expected cost of the enhanced death benefit. First, hypothetical asset returns were projected using generally accepted actuarial simulation methods. For each asset return pattern thus generated, hypothetical accumulated values were calculated by applying the projected asset returns to the initial value in a hypothetical account. Each accumulated value so calculated was then compared to the amount of the enhanced death benefit payable in the event of the hypothetical Contract owner's death during the year in question. By analyzing the results of several thousand such simulations, MassMutual and MML Bay State were able to determine actuarily the level cost of providing the enhanced death benefit. Based on this analysis, MassMutual and MML Bay State determined that a mortality risk charge of 0.10% was a reasonable charge for providing the

enhanced death benefit. Memoranda is available to the Commission (or its staff) upon request setting forth in detail the methodology used in determining that the risk charge of 0.10% for the enhanced death benefit is reasonable in relation to the risks assumed by MassMutual and MML Bay State under the Contracts.

Conclusion

Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit, for all of the reasons stated in the application, that their exemptive requests meet the standards set out in Section 6(c), are well precedented, and that an Order should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–23663 Filed 9–23–94; 8:45am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2081]

United States International Telecommunications Advisory Committee (ITAC) Meetings Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC) Telecommunications Standardization Sector Study Group D will meet on October 11, 1994, in room 1205 from 9:30 am to 3 pm and Study Group B, October 25, 1994 from 9:30 am to 4:30 pm in room 1912, at the U.S. Department of State, 2201 "C" Street, NW, Washington, DC 220520.

The agenda for Study Group D will include a debrief of the recent ITU–T Study Group meeting and finalize preparations for the Study Group 7 meeting to be held in Seoul, Korea from October 31 to November 11, 1994. The Study Group D meeting may discuss other business, including issues relevant for meetings of the Permanent Consultative Committees of the Inter-American Telecommunication Commission (CITELs PCCs) and the Permanent Executive Committee of the Inter-American Telecommunication Commission (COM/CITEL) may also be raised.

The agenda for the October 25 meeting of Study Group B will include a review of results and activities of the ITU–T Study Group 11 Meeting, September 5–23, 1994 and consideration of contributions for ITU–T study Group 13 Meeting, November 14–25, 1994 and other matters appropriate for U.S. Study Group B. Other business, including issues relevant for meetings of CITELs PCCs and COM/CITEL may also be raised.

Please bring 35 copies of documents to be considered at this meeting. If documents has been mailed, bring only 10 copies.

If you wish to be a part of the U.S. Delegation to the SG 13 Meeting, please inform Gary Fereno at the Department of State (202–647–2592) and complete required documentation 30 days prior to the start of the meeting.

Please Note: Persons intending to attend either of the above U.S. Study Group Meetings must announce this not later than 5 days before the meeting to the Department of State, 202–647–0201 (fax: 202–647–7407). The announcement must include name, social security number, and date of birth. The above includes government and non-government attendees. All attendees must use the "C" Street entrance. A Picture ID will be required for admittance.

Dated: September 12, 1994.

Earl S. Barbely,

Chairman, U.S. ITAC for ITU–T Telecommunications Standardization Sector.

[FR Doc. 94–23679 Filed 9–13–94; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice 2082]

United States International Telecommunicatoins Advisory Committee Radiocommunication Sector Working Party 1A Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Radiocommunication Sector, Working Party 1A, will meet on October 20, 1994, at 9:30 a.m. in Room 1412 at the U.S. Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Washington, DC.

The purpose of the meeting is to prepare for an international meeting of Working Party 1A that will develop a handbook on, "Computer-Aided Techniques for Spectrum Management". Working Party 1A recently recommended the division of the current handbook for Spectrum Management and Computer-Aided Techniques into two handbooks. One, which is complete and scheduled to be published shortly, treats the topic of Spectrum Management. The other, whose text is being revised, will treat the topic of Computer-Aided Techniques for Spectrum Management. It is intended that both handbooks reflect the current technology used in spectrum management and computer automation. Assistance is being sought to provide input to the document in the area of computer hardware and software requirements for spectrum management. The handbook is presently organized into the following sections:

—Introduction and Background
—Spectrum Management Data
—Computer Techniques
—Examples of Automated Aids for Spectrum Management
—Appendices

The possibility exists for vendors to advertise analysis programs and tools in the handbook.

Members of the General Public are encouraged to attend the meeting and join in the discussions, subject to the instructions of the Chairman, Mr. Carl Winkler. Anyone planning to attend the meeting is requested to contract Mr. Winkler no later than five days prior to the meeting: (i) by phone at (202) 482–3055; (ii) by fax at (202) 482–4595; (iii) by Internet E–Mail (cwinkler@ntia.doc.gov) or (iv) by mail at NTIA, 179 Admiral Cochrane Drive, Annapolis MD 21401.

Dated: September 12, 1994.

Warren G. Richards,

Chairman, U.S. ITAC for ITU-Radiocommunication Sector.

[FR Doc. 94–23680 Filed 9–23–94; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Civil Tiltrotor Development Advisory Committee; Infrastructure Subcommittee

Pursuant to Section 10(A) (2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC)

Infrastructure Subcommittee that will be held on October 7, 1994 at the headquarters of the Airport Council International located at 1775 K Street NW, Suite 500, Washington DC 20006. The meeting will begin at 9:00 a.m. and conclude by 5:00 p.m.

The agenda for the Infrastructure Subcommittee meeting will include the following:

(1) Review the Infrastructure Subcommittee Work Plans and schedule.

(2) Review Subcommittee Assumptions.

(3) Review draft issues papers, report chapters, and other efforts.

Persons who plan to attend the meeting should notify Ms. Karen Braxton on 202–267–8759 or Ms. Deborah Ogunshakin on 202–267–9451. Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting.

Members of the public may provide a written statement to the Subcommittee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Karen Braxton or Ms. Deborah Ogunshakin at least three days prior to the meeting.

Issued in Washington, D.C., September 20, 1994.

Richard A. Weiss,

Designated Federal Official, Civil Tiltrotor Development Advisory Committee.

[FR Doc. 94–23740 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 177 Twelfth Meeting

Test Criteria and Guidance Relative to Portable Electronic Devices Carried on Board Aircraft

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 177 meeting to be held October 18–19, 1994, starting at 9:00 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Please Note Location

Agenda will be as follows: (1) Chairman's remarks; (2) Review of meeting agenda; (3) Approval of the summary of the eleventh meeting; (4) Presentations of subcommittee: (a) PED testing update (Aviles), (b) Susceptibility analysis and testing (Covell), (c) In-aircraft test results (Aviles/Waltho); (5) Computer modelling status (Hughes); (6) Report input review (Wright); (7) New/other business; (8) Date and place of next meeting. Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 21, 1994.

David W. Ford,

Designated Officer.

[FR Doc. 94–23741 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 185 Second Meeting

Aeronautical Spectrum Planning Issue

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 185 meeting to be held November 9–10, 1994, starting at 9:00 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, NW, Suite 1020, Washington, DC 20036.

Agenda will be as follows: (1) Administrative remarks; (2) General introductions; (3) Approval of agenda; (4) Review of revised work program; (5) Presentations on Current Aeronautical Spectrum Use and Existing and Planned FAA Radiocommunication Programs—Brandy Lohse, Dick Neat; (6) Presentation on automatic dependent surveillance—Chris Moody; (7) Formation of working/drafting groups; (8) Assign tasks; (9) Other business; (10) Establish agenda for next meeting; (11) Date and place of next meeting. Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 20, 1994.

David W. Ford,

Designated Officer.

[FR Doc. 94–23742 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 79–17; Notice 40]

New Car Assessment Program (NCAP)

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of public meeting; Request for comments.

SUMMARY: This notice announces that a public meeting will be held on NHTSA's New Car Assessment Program and other vehicle safety consumer information activities. The purpose of the meeting is to seek the public's guidance on how best to provide vehicle safety information to consumers and to ascertain the types of information consumers desire.

DATES: *Public Meeting*—A public meeting will be held on Wednesday, November 9, 1994, beginning at 9 a.m., at the Public Meeting address listed below.

Persons wishing to make oral presentations or serve on panels at the Public Meeting on one or more topics of the attached agenda should contact Vincent Quarles at the address or telephone number listed below by October 19, 1994. Persons making oral presentations are requested, but not required, to submit 25 written copies of the full text of their presentation no later than the day before the meeting.

Written Comments: Written comments must be received on or before November 16, 1994.

ADDRESSES: *Public Meeting*—The Public Meeting will be held in the Federal Aviation Administration Auditorium, third floor, 800 Independence Avenue SW., Washington, DC 20591.

Written Comments: All written comments must refer to the docket and notice numbers set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. Submissions containing information for which confidential treatment is requested should be submitted (three copies) to Chief Counsel, National Highway Traffic Safety Administration, room 5219, 400 Seventh Street SW., Washington, DC 20590, and seven additional copies from

which the purportedly confidential information has been deleted should be sent to the Docket Section.

FOR FURTHER INFORMATION CONTACT: Vincent R. Quarles, Office of Market Incentives, National Highway Traffic Safety Administration, room 5313, 400 Seventh Street SW., Washington, DC 20590, 202–366–1708.

SUPPLEMENTARY INFORMATION: In 1972, Congress enacted the "Motor Vehicle Information and Cost Savings Act" which includes, among other things, requirements for the development and dissemination of comparative information on the crashworthiness of motor vehicles. In 1978, the New Car Assessment Program (NCAP) was created to partially fulfill this requirement. NCAP test results evaluate the degree or crash protection provided front seat occupants by the vehicle's structure and the occupant protection devices provided for those occupants. NCAP crash tests, through model year 1994, have evaluated frontal crash protection only. In this test, vehicles are crashed into a fixed barrier at 35 mph, which is equivalent to a head-on collision between two identical vehicles each moving at 35 mph. Instrumented dummies register forces and impacts during the crash. That information is, in turn, used by NHTSA to predict potential head, chest and femur injuries. Approximately 35–40 passenger vehicles are tested each year in the NCAP and the test results are made available to the public through the periodic issuance of news releases, through the agency's Hotline, and through other means.

NCAP is NHTSA's most popular vehicle safety consumer information activity, as witnessed by the volume of calls to the agency, media attention to program results, and the use of NCAP data by numerous consumer and insurance organizations.

In recent years, the travelling public has increased its concern about motor vehicle safety. Increased safety belt usage, reduced levels of alcohol-impaired driving, and attention to vehicle safety attributes such as air bags and antilock brakes are evidence of this trend.

To take advantage of this heightened consumer awareness of safety, and to address technical and other issues associated with NCAP, the agency believes it is timely to convene a Public Meeting to discuss future activities under NCAP as well as how NCAP and other safety information activities conducted or required by NHTSA can best be integrated.

Report to Congress

On December 8, 1993, in response to the House and Senate Appropriations Committees, the agency submitted a report to Congress on NCAP.

This report, which is in the docket, provides:

- The results of an 18-month study to assess consumer and media needs and preferences for better understanding and more effective use of NCAP data. This included a summary of several consumer focus group and media studies. These studies indicated that consumers and the media desire comparative safety information on vehicles, a simplified NCAP format to better understand and utilize the crash test results, and expansion of NCAP to include other crash modes, such as side crashes and rollovers. Plans for implementing the findings of these studies are included in that report.
- Studies of real-world crashes versus NCAP crash tests. These studies tentatively conclude that NCAP test conditions approximate real-world crash conditions covering a major segment of the frontal crash safety problem. NHTSA also tentatively concludes that there is a significant correlation between NCAP results and real-world fatality risks for restrained drivers. In high speed frontal crashes, fatality risks to restrained drivers of cars that perform well in NCAP may be as much as 30 percent lower than fatality risks to restrained drivers of cars that do not perform well in NCAP. A more detailed report on this subject titled Correlation of NCAP Performance With Fatality Risk in Actual Head-On Collisions has been published by the agency, and is available in the NHTSA docket, and public comments were separately sought on that report (see 59 FR 1586, January 11, 1994).
- A study on the efficacy of allowing manufacturers to choose between the Hybrid III and the Hybrid II crash test dummy. NCAP data were utilized in this study along with an analysis of comments to Federal Register notices on the mandatory use of the Hybrid III crash test dummy in Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection, and in NCAP. From data analysis and the review of the comments to the notices, NHTSA has concluded that exclusive use of the Hybrid III in NCAP should begin with MY 1996 vehicles. This is two years earlier than the Hybrid III will be used exclusively for FMVSS No. 208 compliance tests. Beginning with MY 1994 vehicles, the Hybrid III is being used exclusively for NCAP testing for all seating positions in which the occupant is protected by an air bag.

The report also includes a review of NCAP historical performance and the following future goals:

- Reach a larger group of the population with simplified data that will assist consumers in their vehicle purchases.
- Expand the collection of safety information by utilizing the additional injury-measuring capabilities of the more advanced Hybrid III dummy.
- Expand NCAP to provide comparative side impact information to consumers along with the frontal NCAP information.
- Monitor rollover safety activities to determine the potential for providing consumers with comparative information on levels of protection in the rollover crash mode and on vehicle roll stability.

January 3, 1994 Request for Comments

NHTSA published a notice in the Federal Register on January 3, 1994, (59 FR 104), to request comments on whether it should convene a public meeting to review and discuss issues of NCAP. Comments were solicited on:

(1) the desirability and need for such a public meeting and

(2) the topics for consideration if a meeting is conducted. Suggested topics included all items that were discussed in the Congressional report and others, such as—

(A) additional frontal crash modes and/or higher frontal test speeds.

(B) additional injury measures.

(C) whether crashworthiness assessment programs should precede or follow the rulemaking process.

(D) review of the simplified NCAP format.

Response to January 3, 1994 Request for Comments

Comments were received from three automobile manufacturers (Toyota, Volkswagen (VW), and Volvo), two automobile manufacturer associations (Association of International Automobile Manufacturers (AIAM), and the American Automobile Manufacturers Association (AAMA)), the Insurance Institute for Highway Safety (IIHS), and four consumer groups (Advocates for Highway and Auto Safety (Advocates), Center for Auto Safety (CFAS), Institute for Injury Reduction, and Public Citizen).

All commenters supported the holding of a public meeting. Toyota opposed the expansion of NCAP, urging the agency instead to provide consumers information on specific vehicle safety features. VW stated that

NCAP expansion is premature while Volvo said that vehicle safety is more complex than can be represented by single tests at a single speed, etc. Conversely, Advocates, CFAS, and IIHS favor expansion of NCAP to other crash modes and speeds.

The automobile industry generally felt that new NCAP activities, such as different test speeds, injury criteria, or crash modes, should be preceded by rulemaking notices to amend existing or add new safety standards regulating the same aspect of performance. However, Advocates argued that NCAP-type consumer information programs should precede formal rulemaking.

Toyota and AAMA suggested that NCAP should consider using tests harmonized with those being conducted in the international community.

In comments on the new "star" rating system, Toyota questioned the validity of combining head and chest dummy injury readings into a single measure. VW stated that it found the new rating system more acceptable than the previous format. IIHS has reservations over the new star system because it believes that consumers may not fully understand that it can only be used to compare vehicles in the same weight class. CFAS stated that the system could be improved and should also reflect femur loads.

Several comments were provided on using additional or different injury criteria. Toyota and VW stated that the biofidelity of additional injury levels has not been established. IIHS said NHTSA needs to reassess its current NCAP injury criteria, given the widespread use of air bags. CFAS suggested using the additional injury-predicting capability of the Hybrid III test dummy.

CFAS also suggested that NHTSA publish make/model Fatal Accident Reporting System data and consider providing consumer information on window stickers. They also suggested that NHTSA define the audience for NCAP data.

VW urged NHTSA to address test repeatability and variability and the potential increase in vehicle aggressiveness if test speeds are raised.

Public Meeting

The agency has reviewed the public comments to its January 3, 1994, notice and, in response to the commenters, has decided to conduct a public meeting on the future of NCAP. However, NHTSA wishes to expand the discussion to include other vehicle safety consumer information activities. In particular, NHTSA points to CFAS' suggestion that the agency provide point-of-sale safety information via vehicle stickers. This is the same approach the agency itself proposed for NCAP frontal crash information (see 46 FR 7025, January 22, 1981) and in a Notice of Proposed Rulemaking for rollover stability information published on June 28, 1994 (59 FR 33254). The agency recognizes that window stickers, or other types of pre- or actual point-of-sale informaiton (such as consumer brochures) are the most effective means of reaching prospective vehicle purchasers, but that significant issues, such as the necessity of providing information on the limitations and use of the data, remain. The agency also wishes to point out that it may not need to continue to conduct NCAP activities, if point-of-sale information is provided. NHTSA wishes to focus public attention on this issue, which will be part of the discussion at the public meeting. However, not wishing to pre-judge the issue, the agency wishes to conduct the majority of the public meeting as if its NCAP activities will continue.

The agency wishes the public meeting to have the maximum possible level of participation. Thus, it will conduct the meeting using such informal means as follow-up questions from attendees to formal presenters, as well as having panel discussions of some issues.

To focus attention, NHTSA has prepared the attached agenda for the meeting. Agency staff will make presentations regarding items I (Introduction) and II (Background of NCAP) to set the format of, and stage for, the meeting. Agency staff will summarize the recent "real world" evaluation of NCAP (Agenda item III—Relevance of NCAP Data). NHTSA invites commenters to make presentations on the validity of that report. NHTSA staff will respond and ask questions of those making presentations.

Item IV, Reactions to NCAP information, will be in the form of a panel discussion. Those wishing to serve on the panel are requested to notify the agency. NHTSA will seek to insure balanced representation from those desiring to serve on the panel.

Item V, Methods of Presenting NCAP Information, will use the speaker format, while Item VI, Current Test Procedure Issues, will again be in a panel format.

NHTSA desires that Item VII, the Future of Consumer Safety Information Initiatives have the largest time for discussion of any item on the agenda. Again, the agency believes a panel discussion would be most appropriate for this item.

Written Comments

The agency invites written comments from all interested parties. The agency notes that participation in the public meeting is not a prerequisite for the submission of written comments. It is requested but not required that 10 copies of each written comment be submitted.

No comment may exceed 15 pages in length. (40 CFR 553.21). Necessary attachments may be appended to a comment without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit specified information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation, 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. Comments will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their written comments in the Docket Section should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receipt, the docket supervisor will return the postcard by mail.

Persons making oral presentations at the public meeting are requested, but not required, to submit 25 written copies of the full text of their presentation to Vincent Quarles no later than the day before the meeting. Presentations should be limited to 15 minutes. If time permits, persons who have not requested time, but would like to make a statement, will be afforded an opportunity to do so. Copies of all written statements will be placed in the docket for this notice. A verbatim transcript of the public meeting will be prepared and also placed in the NHTSA docket as soon as possible after the

meeting. A schedule of the persons making oral presentations at the meeting will be available at the designated meeting area at the beginning of the public meeting.

To facilitate communication, NHTSA will provide auxiliary aids to participants as necessary, during the meeting. Thus, any person desiring assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunications, devices for deaf persons (TDDs) readers, taped texts, braille materials, or large print materials and/or a magnifying device) should contract Vincent Quarles at (202) 366–1708 by October 26, 1994.

Authority: 49 U.S.C. 32302; delegation of authority at 49 CFR 1.50.

Issued on September 21, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

Agenda

I. Introduction

A NHTSA representative will introduce the meeting and discuss its purpose. This will include a review of the Federal Register notice on January 3, 1994, and a brief summary of the comments received. The format of the meeting will be outlined. Proposed panel discussions and presentations involving both NHTSA and public participants will be announced.

II. Background of NCAP

An agency speaker will briefly discuss the background of NCAP including the statutory mandate, early efforts, a brief history of NCAP, the current program criteria, procedures and protocol and Congressional interest.

III. Relevance of NCAP Data

The agency will make presentations and discuss its recent report showing the correlation between real-world crashes and NCAP results. The agency will also discuss comments on that report.

IV. Reactions to NCAP Information

This subject will be addressed by a panel of representatives of manufacturers, media, insurers and automobile safety and consumer groups. The discussion of this and all other participant panels will be moderated by an agency representative.

V. Methods of presenting and format of NCAP Information

An agency speaker will present an historical overview of the methods used to present previous NCAP data and discuss the current star rating system. In addition, the agency will discuss the possibility of combining data from various crash modes into a single injury indicator. Outside speakers are invited to present their views, reactions and suggested revisions to the present format.

VI. Current Test Procedure Issues

This subject will be addressed by a panel of representatives of manufacturers, media, insurers and automobile safety and consumer groups. Topics will include issues such as repeatability, international harmonization and aggressivity.

VII. Future of Consumer Safety Information Initiatives

The agency will moderate a discussion of possible future changes in NCAP and its other consumer safety information initiatives. Proposed topics include; evaluating the need to change NCAP, consideration of higher test speeds, side impacts, offset crashes, different size dummies and/or developing new injury criteria. The agency will also entertain discussion of the feasibility of mandating the provision, by manufacturers, of comprehensive safety information on new models. The objective of providing such information would be to inform consumers (via one label or through other means) of important vehicle safety attributes such as protection in frontal impacts, side impacts and rollovers. It should also be noted that in 1981 the agency proposed establishment of an NCAP performance rating program to be developed by manufacturers via a window sticker.

[FR Doc. 94–23722 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 94-26; Notice 2]

AM General Corporation, Mootness of Petition for Determination of Inconsequential Noncompliance

AM General Corporation of Livonia, Michigan determined that some of its vehicles failed to comply with Paragraph S5.3.1.1 of 49 CFR 571.108, Federal Motor Vehicle Safety Standard No. 108, "Lamps, Reflective Devices, and Associated Equipment," and filed an appropriate report pursuant to 49 CFR Part 573 "Defect and Noncompliance Reports". AM General also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) (now 49 U.S.C. 30118 and 30120) on the basis that the noncompliance was inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on April 13, 1994, and an opportunity afforded for comment (59 FR 17635). The reader is referred to the notice for further information. No comments were received. This notice announces NHTSA's determination that the petition has been mooted.

The noncompliance reported was with the photometric requirements for a single test point on rear identification lamps. Representatives of NHTSA contacted the petitioner to verify that a noncompliance existed, and learned that the petition had been based on petitioner's assumption that a noncompliance existed because a small portion of the lamp was obscured. Petitioner then performed photometric tests on the lamps and found that their light output exceeded the minimum requirements by 100% at the test points concerned. Because the lamps do, in fact, comply, petitioner is under no legal obligation to notify and remedy a noncompliance and its petition is moot.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 21, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–23733 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. NCI 3270; Notice 1]

Child Restraint Systems Manufactured by Fisher-Price, Inc.; Public Proceeding Scheduled

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of public meeting.

SUMMARY: NHTSA will hold a public meeting at 10 a.m. on October 21, 1994 regarding its initial decision that certain child restraint systems manufactured by Fisher-Price, Inc., fail to comply with the flammability requirements of Federal Motor Vehicle Safety Standard No. 213, *Child Restraint Systems.*

FOR FURTHER INFORMATION CONTACT: James Gilkey, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–5295.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 30118(a) (formerly section 152(a) of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 15 U.S.C. 1412(a)), NHTSA has made an initial decision that certain child safety seats manufactured by Fisher-Price, Inc., do not comply with the requirements of

Federal Motor Vehicle Safety Standard (FMVSS) No. 213, Child Restraint Systems, 49 CFR 571.213. Compliance tests performed for NHTSA indicate that the shoulder belt webbing on Fisher-Price Models AO9191, DO9191, 9103, 9149, 9173, 9179, and 9180 seats manufactured between 1988 and September 16, 1993 do not meet the flammability requirements of FMVSS No. 213 and therefore would not provide adequate protection to children in the event of a fire in a vehicle in which they are installed.

Pursuant to 49 CFR 554.10, a public meeting will be held at 10 a.m., on Monday, October 21, 1994 in Room 9230, Department of Transportation Building, 400 Seventh Street, SW., Washington, DC, at which time the manufacturer and all other interested persons will be afforded an opportunity to present data, views, and arguments on the issue of whether the child safety seats covered by this initial decision comply with FMVSS No. 213.

In September 1993, Fisher-Price filed a petition seeking an exemption from the recall requirements of the statute on the basis that any noncompliance with the flammability requirements of FMVSS No. 213 was inconsequential as it relates to motor vehicle safety (58 FR 59511). After NHTSA denied the petition (59 FR 23253), Fisher-Price appealed (59 FR 30957). In conjunction with its appeal, Fisher-Price requested the agency to convene a public meeting on the inconsequentiality issue, which was scheduled for August 17, 1994 (59 FR 39015).

Pursuant to the agency's regulations governing inconsequentiality petitions, 49 CFR 556.4(a), such petitions may only be filed after a determination that a noncompliance exists. Until recently, NHTSA had believed that Fisher-Price had made such a determination in September 1993, prior to filing its inconsequentiality petition. However, on August 10, 1994, Fisher-Price informed the agency that it was taking the position that it had never formally determined that a noncompliance existed. NHTSA therefore canceled the public meeting and terminated the inconsequentiality proceeding (59 FR 42326). The documents reflecting the agency's consideration of that petition may be found in NHTSA Docket No. 93–79.

Under the circumstances, NHTSA has resumed its noncompliance investigation and, as described above, has made an initial decision that these Fisher-Price car seats do not comply with FMVSS No. 213. Pursuant to 49 CFR 556.4(a), Fisher-Price could at this time renew its petition for an inconsequentiality determination. However, by letter dated August 25, 1994, counsel for Fisher-Price advised NHTSA that the company did not plan to file such a petition, even if the agency should finally decide that a noncompliance exists.

Interested persons are invited to participate in this proceeding through written an/or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Elaine Beale, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2832, before the close of business on October 18, 1994. Written comments must be submitted to the same address and received not later than the beginning of the meeting on October 21, 1994.

All materials related to the issues addressed by this notice are available for public inspection during working hours (9:30 a.m. to 4 p.m.) in NHTSA's Technical Reference Library, Room 5108, 400 Seventh Street, SW., Washington, DC 20590.

Authority: 49 U.S.C. 30118(a); delegations of authority at 49 CFR 1.50(a) and 49 CFR 501.8

Issued on: September 20, 1994.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 94–23688 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TREASURY

Customs Service

Public Meeting on Customs "MOD Act"

AGENCY: Customs Service, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces that a public meeting will be held in the Department of Commerce Auditorium in Washington, DC, commencing at 10 a.m. on Friday, October 14, 1994. The purpose of this meeting is to; (1) Provide the public with a general briefing on Customs vision of the future of the trade compliance process, (2) provide the public with a "Mod Act" implementation status update, and (3) give participants an opportunity to ask questions, make suggestions, and provide the Customs Service with informal input relative to its vision of future of the trade compliance process and its efforts to implement the Mod Act.

To facilitate building access and control attendance, those planning to attend are requested to notify Customs in advance.

DATES: October 14, 1994 from 10 a.m. to 3:30 p.m.

ADDRESS: Commerce Department Auditorium, Main Entrance to Hoover Building, 14th Street between Pennsylvania & Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dale Snell, "Mod Act" Task Force, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229. Phone: (202) 482–6990; FAX: (202) 482–6994.

SUPPLEMENTARY INFORMATION: On December 8, 1993, the President signed the "North American Free Trade Agreement Implementation Act." The Customs modernization portion of this Act (Title VI of Public Law 103–182), popularly known as the Customs Modernization Act or "Mod Act," became effective when it was signed. During the morning of Friday, October 14, 1994, Mr. Charles Winwood, the "Cargo Process Owner" under Customs' Reorganization Plan, will give a general presentation covering Customs vision of the future of the trade compliance process and how Customs plans to manage development and implementation of both new and existing components of this process. During the afternoon of the same day, presentations addressing Mod Act implementation and discussions of the interrelationships that exist between implementation of the new vision and the Mod Act will take place. Ample time will be allowed for trade participants and other in the private sector to ask questions and express reactions to ideas and information provided by Customs officials at the meeting.

The meeting is open to the public. Persons planning to attend are requested to pre-register by FAX with Mr. Dale Snell at 202–482–6994. Individuals not having access to facsimile equipment may pre-register by calling Mr. Snell at 202–482–6990. Those attending are encouraged to arrive approximately 30 minutes in advance of the meeting.

Dated: September 19, 1994.

Harvey B. Fox,

Director, Office of Regulations & Rulings.

[FR Doc. 94–23636 Filed 9–23–94; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1994—Rev., Supp. No. 1]

Surety Companies Acceptable on Federal Bonds Termination of Authority: American Bonding Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to American Bonding Company, of Tucson, Arizona, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective September 19, 1994.

The Company was last listed as an acceptable surety on Federal bonds at 59 FR 34142, July 1, 1994.

With respect to any bonds currently in force with American Bonding Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, telephone (202)/FTS) 874–6765.

Dated: September 15, 1994.

Diane E. Clark,

Assistant Commissioner, Financial Information, Financial Management Service.

[FR Doc. 94–23660 Filed 9–23–94; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 185
Monday, September 26, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, September 28, 1994.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Lidocaine and Dibucaine

The Commission will consider a child-resistant packaging requirement under the Poison Prevention Packaging Act for the topical anesthetics lidocaine and dibucaine.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway Bethesda, MD 20207 (301) 504–0800.

Dated: September 22, 1994.

Sadye E. Dunn,

Secretary.

[FR Doc. 94–23891 Filed 9–22–94; 2:02 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, September 29, 1994.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MASTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 22, 1994.

[FR Doc. 94–23892 Filed 9–22–94; 2:02 pm]

BILLING CODE 6355–01–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: September 28, 1994, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 616th Meeting—September 28, 1994, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 401–016, Indiana-Michigan Power Company
CAH–2.
Project Nos. 2287–005 and 2288–006, Public Service Company of New Hampshire
Project Nos. 2300–005, 2311–005, 2326–005, 2327–006 and 2422–007, James River–New Hampshire Electric, Inc.
CAH–3.
Project Nos. 10481–010 and 10482–013, Orange and Rockland Utilities, Inc.
CAH–4.
Project No. 10567–003, Barrish & Sorenson Hydroelectric Company, Inc.
CAH–5.
Project No. 10661–013, Indiana-Michigan Power Company
CAH–6.
Docket Nos. UL94–1–001 and UL94–3–001, Union Water Power Company and Kennebec Water Power Company
CAH–7.
Omitted
CAH–8.
Project No. 9401–030, Mount Hope Waterpower Project, L.P.
CAH–9.
Omitted
CAH–10.
Project No. 11038–004, County of Arapahoe and Town of Parker, Colorado
CAH–11.
Omitted
CAH–12.
Project Nos. 1855–010, 1892–005, 1904–019, 2077–007, 2323–013 and 2669–002, New England Power Company

Consent Agenda—Electric

CAE–1.
Omitted
CAE–2.
Docket No. ER94–1518–000, Commonwealth Electric Company
CAE–3.
Docket No. ER94–950–000, Hermiston Generating Company, L.P.
CAE–4.
Docket Nos. ER93–920–000, 001 and 002, New England Power Company
CAE–5.
Docket Nos. EC94–7–001 and ER94–898–001, El Paso Electric Company and Central and South West Services, Inc.
CAE–6.
Docket Nos. ER93–465–011 and ER93–922–007, Florida Power & Light Company
CAE–7.
Docket No. TX94–2–001, El Paso Electric Company and Central and South West Services, Inc., as agent for Public Service Company of Oklahoma, West Texas Utilities Company, Southwestern Electric Power Company, and Central Power and Light Company v. Southwestern Public Service Company
CAE–8.
Docket No. ER94–804–001, Midwest Power Systems, Inc.
CAE–9.
Omitted
CAE–10.
Omitted
CAE–11.
Docket No. ER93–266–001, Boston Edison Company
CAE–12.
Docket Nos. EC93–6–001 and ER94–1015–000, Cincinnati Gas & Electric Company and PSI Energy, Inc.
CAE–13.
Omitted
CAE–14.
Docket No. EG94–89–000, CNG Power Services Corporation
CAE–15.
Docket No. EL94–28–000, Seminole Electric Cooperative, Inc.
Docket No. EL94–47–000, Florida Municipal Power Agency v. Florida Power & Light Company
CAE–16.
Docket No. ER93-413-002, Pacific Gas and Electric Company

Consent Agenda—Oil and Gas

CAG–1.
Docket No. GT94–65–000, Texas Eastern Transmission Corporation
CAG–2.
Docket No. RP92–132–042, Tennessee Gas Pipeline Company
CAG–3.

Docket No. RP94–295–000, Gasdel Pipeline System, Inc.
CAG–4.
Docket No. RP94–312–000, Columbia Gulf Transmission Company
Docket No. CP94–777–000, Columbia Gulf Transmission Company and Texas Eastern Transmission Corporation
CAG–5.
Omitted
CAG–6.
Docket No. RP94–357–000, Texas Eastern Transmission Corporation
CAG–7.
Docket Nos. RP94–375–000, RP94–125–006 and RP94–375–001, Texas Gas Transmission Corporation
CAG–8.
Docket No. RP94–377–000, Texas Gas Transmission Corporation
CAG–9.
Docket No. RP94–378–000, Texas Eastern Transmission Corporation
CAG–10.
Docket No. RP94–380–000, Southern Natural Gas Company
CAG–11.
Docket No. RP94–383–000, Columbia Gas Transmission Corporation
CAG–12.
Docket No. RP94–384–000, ANR Pipeline Company
CAG–13.
Docket No. RP94–386–000, Southern Natural Gas Company
CAG–14.
Docket No. RP94–387–000, Southern Natural Gas Company
CAG–15.
Docket No. RP94–391–000, Centra Pipelines Minnesota, Inc.
CAG–16.
Docket No. RP94–392–000, Chandeleur Pipe Line Company
CAG–17.
Docket No. TM94–16–29–000, Transcontinental Gas Pipe Line Corporation
CAG–18.
Docket No. TM95–1–16–000, National Fuel Gas Supply Corporation
CAG–19.
Docket No. TM95–2–21–000, Columbia Gas Transmission Company
CAG–20.
Omitted
CAG–21.
Docket No. RP94–328–000, KN Interstate Gas Transmission Company
CAG–22.
Docket No. RP94–376–000, KN Interstate Gas Transmission Company
CAG–23.
Docket No. RP94–379–000, Colorado Interstate Gas Company
CAG–24.
Omitted
CAG–25.
Docket No. RP94–382–000, Colorado Interstate Gas Company
CAG–26.
Docket No. RP94–385–000, Northern Natural Gas Company
CAG–27.
Docket No. RP94–388–000, Trunkline Gas Company
CAG–28.
Docket No. RP94–390–000, NorAm Gas Transmission Company
CAG–29.
Docket No. TA95–1–35–000, West Texas Gas, Inc.
CAG–30.
Docket No. TM95–1–33–000, El Paso Natural Gas Company
CAG–31.
Docket No. RP94–273–000, Columbia Gas Transmission Corporation
CAG–32.
Docket Nos. RP94–179–000, –001, RP94–86–000, 001 and RP94–252–000, Natural Gas Pipeline Company of America
CAG–33.
Omitted
CAG–34.
Docket No. TM95–1–32–000, Colorado Interstate Gas Company
CAG–35.
Docket No. RP93–175–000, Williston Basin Interstate Pipeline Company
CAG–36.
Docket Nos. IS90–21–003, IS90–31–003, IS90–32–003, IS90–40–003, IS91–1–003, SP91–3–003, SP91–5–003, IS91–21–003, IS91–28–003, IS91–33–003 and OR93–1–001, Williams Pipe Line Company
Docket Nos. IS90–39–003, IS91–3–001 and IS91–32–001, Enron Liquids Pipeline Company
CAG–37.
Docket No. RP94–213–005, CNG Transmission Corporation
CAG–38.
Docket Nos. RP94–307–001 and RP94–264–004, Southern Natural Gas Company
CAG–39.
Docket No. RP94–301–001, Stingray Pipeline Company
CAG–40.
Docket No. GT94–57–001, Colorado Interstate Gas Company
CAG–41.
Docket No. RP94–220–003, Northwest Pipeline Corporation
CAG–42.
Docket No. TM94–4–17–004, Texas Eastern Transmission Corporation
CAG–43.
Docket No. TM94–5–17–002, Texas Eastern Transmission Corporation
CAG–44.
Docket Nos. RP94–346–002, 003, 004, 005, RP94–87–000, et al., 002, 003, 005, 006, RP94–249–001, 002, 003, RP94–122–002, 003, 004, 005, RP94–169–002, 003, 004, 005, RP94–195–001, 002, 003, 004, RP94–260–002, 003 and RP94–305–001, Natural Gas Pipeline Company of America
CAG–45. Omitted
CAG–46.
Docket Nos. RP94–113–001, 002 and CP94–369–001, Columbia Gas Transmission Corporation and Tennessee Gas Pipeline Company
CAG–47. Omitted
CAG–48.
Docket No. PR91–20–001, Prairie Producing Company v. Louisiana Intrastate Gas Corporation
CAG–49.
Docket No. RP94–161–002, U–T Offshore System
CAG–50. Omitted
CAG–51.
Docket No. RP94–231–002, Panhandle Eastern Pipe Line Company
CAG–52.
Docket No. GP94–2–001, Columbia Gas Transmission Corporation
CAG–53.
Docket No. RP92–229–003, Northwest Pipeline Corporation
CAG–54. Omitted
CAG–55.
Docket Nos. ST88–2555–005, ST88–2905–000, ST88–3337–000, ST88–4985–000, ST89–229–000, consolidated; ST89–1708–000 and ST89–1775–000, Louisiana Intrastate Gas Corporation
CAG–56.
Docket No. RP94–268–000, Energy Production Corporation v. Koch Gateway Pipeline Company
CAG–57.
Docket No. RO92–5–000, Ocean Drilling & Exploration Company, ODECO Oil & Gas Company, Murphy Oil Corporation and Murphy Oil U.S.A., Inc.
CAG–58.
Docket No. GP94–10–000, Railroad Commission of Texas, Tight Formation Determination–Texas–112, 113, 114 & 115 Vicksburg Formation (M, R, S, & T Sands), FERC Nos. JD93–04541T, JD93–04589T, JD93–04590T and JD93–04591T
CAG–59.
Docket No. RP94–283–000, Gas Research Institute
CAG–60.
Docket No. RS92–23–026, Tennessee Gas Pipeline Company
Docket No. RS92–33–010, East Tennesse Natural Gas Company
CAG–61.
Docket No. CP93–505–001, Panhandle Eastern Pipe Line Company
Docket No. CP93–506–001, Panhandle Gathering Company
CAG–62.
Docket No. CP93–501–001, Tennessee Gas Pipeline Company
CAG–63. Omitted
CAG–64. Omitted
CAG–65.
Docket No. CP94–377–000, Natural Gas Pipeline Company of America
CAG–66.
Docket Nos. CP93–434–000 and 001, NorAm Gas Transmission Company
Docket No. CP93–671–000, Williams Natural Gas Company
CAG–67.
Docket No. CP94–295–000, Northern Natural Gas Company
CAG–68. Omitted
CAG–69.
Docket No. CP93–84–000, Mississippi River Transmission Corporation
CAG–70.
Docket No. CP94–722–000, Shell Offshore Inc.
CAG–71. Omitted
CAG–72.
Docket No. RP94–354–000, National Fuel Gas Supply Corporation
CAG–73.

Docket Nos. RP94–182–004 and RP94–272–002, NorAm Gas Transmission Company
CAG–74.
Docket Nos. RP94–197–000, RP93–151–007 and RP94–309–000, Tennessee Gas Pipeline Company
CAG–75.
Docket No. PR94–3–001, KansOk Partnership
CAG–76.
Docket No. CP94–38–000, Ouachita River Gas Storage Company, L.L.C.
CAG–77.
Docket No. CP94–88–000, Great Lakes Gas Transmission Limited Partnership

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Omitted
E–2.
Omitted
E–3.
Omitted
E–4.
Omitted

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Omitted

II. Restructuring Matters

RS–1.
Reserved

III. Pipeline Certificate Matters

PC–1.
Omitted
PC–2.
Omitted
PC–3.
Docket Nos. CP94–57–002 and 001, Columbia LNG Corporation
Docket Nos. CP94–59–003 and 001, Cove Point LNG Limited Partnership
Docket No. CP94–191–001, Columbia Gas Transmission Company and Columbia LNG Corporation. Order on application for a certificate to recommission Cove Point liquefied natural gas facilities.

Dated: September 21, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–23885 Filed 9–22–94; 2:02 pm]

BILLING CODE 6717–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 48469, September 21, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 p.m., Monday, September 26, 1994.

CHANGES IN THE MEETING: Deletion of the following open item from the meeting:

Summary Agenda

2. (a) Request by Fleet Financial Group, Inc., Providence, Rhode Island, for an exemption from the anti-tying provisions of section 106 of the Bank Holding Company Act; and (b) a related proposed amendment for public comment to modify Regulation Y (Bank Holding Companies and Change in Bank Control) to apply the exemption to all banks.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 22, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–23866 Filed 9–22–94; 1:03 pm]

BILLING CODE 6210–01–P

federal register

Monday
September 26, 1994

Part II

Environmental Protection Agency

40 CFR Parts 9 and 82
Protection of Stratospheric Ozone;
Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 82

[FRL–5078–4]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes restrictions or prohibitions on substitutes for ozone depleting substances (ODSs) under the U.S. Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the amended Clean Air Act of 1990 which requires EPA to evaluate and regulate substitutes for the ODSs to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to expedite movement away from ozone depleting compounds while avoiding a shift into high-risk substitutes posing other environmental problems.

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program, and issued decisions on the acceptability and unacceptability of a number substitutes. In this notice of proposed rulemaking (NPRM), EPA is issuing its preliminary decisions on the acceptability of certain substitutes not previously reviewed by the Agency. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media evaluation of risks to human health and the environment by sector end-use.

Today's action proposes new additions to the list of controlled or prohibited substitutes. As described in the final rule for the SNAP program, EPA does believe that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list an alternative as acceptable only under certain use conditions or certain narrow end-use applications.

EPA does not, however, believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. Consequently, EPA is adding substitutes to the list of acceptable alternatives without first requesting comment on new listings. Updates to the acceptable lists are published as separate notices in the **Federal Register**. A comprehensive compilation of all listings will be published annually.

DATES: Written comments or data provided in response to this document must be submitted by November 10, 1994.

ADDRESSES: Written comments and data should be sent to Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. Telephone (202) 260–7549. As provided in 40 CFC part 2, a reasonable fee may be charged for photocopying. To expedite review, a second copy of the comments should be sent to Sally Rand, Stratospheric Protection Division, Office of Atmospheric Programs, U.S. EPA, 401 M Street SW., 6205–J, Washington, DC 20460. Information designated as Confidential Business Information (CBI) under 40 CFR, part 2 subpart B must be sent directly to the contact person for this notice. However, the Agency is requesting that all respondents submit a non-confidential version of their comments to the docket as well.

FOR FURTHER INFORMATION CONTACT: Sally Rand at (202) 233–9739 or fax (202) 233–9577, Substitutes Analysis and Review Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, Washington, DC.

SUPPLEMENTARY INFORMATION:

I. Overview of This Action

This action is divided into five sections, including this overview:

II. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

Rulemaking—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that: (1) Reduces the overall risk to human health and the environment; and (2) is currently or potentially available.

Listing of Unacceptable/Acceptable Substitutes—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

Petition Process—Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional 6 months.

90-day Notification—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

Outreach—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

Clearinghouse—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These

sectors comprise the principal industrial sectors that historically consume large volumes of ozone-depleting compounds.

The Agency defines a "substitute" as any chemical, product, substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce.

III. Proposed Listing of Substitutes

To develop the lists of unacceptable and acceptable substitutes, EPA conducts screens of health and environmental risks posed by various substitutes for ozone-depleting compounds in each use sector. The outcome of these risks screens can be found in the public docket, as described above in the **ADDRESSES** portion of this notice.

Under section 612, the Agency has considerable discretion in the risk management decisions it can make in SNAP. The Agency has identified five possible decision categories: acceptable, acceptable subject to use conditions; acceptable subject to narrowed use limits; unacceptable; and pending. Acceptable substitutes can be used with no limits for all applications within the relevant sector end-use. Conversely, it is illegal to replace an ODS with a substitute listed by SNAP as unacceptable. A pending listing represents substitutes for which the Agency has not received complete data or has not completed its review of the data.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if conditions of use are met to minimize risks to human health and the environment. Use of such substitutes in ways that are inconsistent with such use conditions renders these substitutes unacceptable.

Even though the Agency can restrict the use of a substitute based on the potential for adverse effects, it may be necessary to permit a narrowed range of use within a sector end-use because of the lack of alternatives for specialized applications. Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Companies must document the results of their evaluation, and retain the results on file for the purpose of demonstrating compliance. This documentation shall include descriptions of substitutes examined and rejected, processes or products in which the substitute is needed, reason for rejection of other alternatives, e.g., performance, technical or safety standards, and the anticipated date other substitutes will be available and projected time for switching to other available substitutes. Use of such substitutes in application and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

In this Notice of Proposed Rulemaking (NPRM), EPA is issuing its preliminary decision on the acceptability of certain substitutes not previously reviewed by the Agency. As described in the final rule for the SNAP program (59 FR 13044), EPA believes that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list a substitute as acceptable only under certain use conditions or narrowed use limits, or to remove an alternative from either the list of prohibited or acceptable substitutes.

EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. Consequently, EPA is adding substitutes to the list of acceptable alternatives without first requesting comment on new listings. Updates to the acceptable and pending lists are published as separate notices in the **Federal Register**.

Parts A. through E. below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing listing decisions in this Notice of Proposed Rulemaking are in Appendix A. The comments contained in Appendix A provide additional information on a substitute. Since comments are not part of the regulatory decision, they are not mandatory for use of a substitute. Nor should the comments be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments in their use of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning

1. Overview

The refrigeration and air conditioning sector includes all uses of class I and class II substances to produce cooling, including mechanical and non-mechanical refrigeration, air conditioning, and heat transfer. Please refer to the final SNAP rule (59 FR 13044) for a more detailed description of this sector.

The refrigeration and air conditioning sector is divided into the following end-uses:

- commercial comfort air conditioning;
- industrial process refrigeration system;
- industrial process air conditioning;
- ice skating rinks;
- uranium isotope separation processing;
- cold storage warehouses;
- refrigerated transport;
- retail food refrigeration;
- vending machines;
- water coolers;
- commercial ice machines;
- household refrigerators;
- household freezers;
- residential dehumidifiers;
- motor vehicle air conditioning;
- residential air conditioning and heat pumps;
- non-mechanical heat transfer; and
- very low temperature refrigeration.

In addition, each end-use is divided into retrofit and new equipment applications. EPA has not necessarily reviewed substitutes in every end-use for this NPRM.

EPA has modified the list of end-uses for this sector for this SNAP update. First, EPA has changed the name of the heat transfer end-use to non-mechanical heat transfer. This change is intended to avoid confusion between systems that move heat from a cool area to a warm one (mechanical refrigeration) and systems that simply aid the movement of heat away from warm areas (non-mechanical heat transfer). The second change is that EPA added a new end-use, very low temperature refrigeration. Substitutes for this end-use have been reviewed since the final rule, and therefore have been added for this SNAP update. Finally, EPA has also reviewed substitutes for CFC–13, R–13B1, and R–503 industrial process refrigeration. Please refer to the final SNAP rule (59 FR 13044) for a detailed description of end-uses other than these three. EPA may continue to add other end-uses in future SNAP updates.

a. Non-mechanical Heat Transfer. As discussed above, this end-use includes all cooling systems that rely on a fluid

to remove heat from a heat source to a cooler area, rather than relying on mechanical refrigeration to move heat from a cool area to a warm one. Generally, there are two types of systems: systems with fluid pumps, referred to as recirculating coolers, and those that rely on natural convection currents, known as thermosyphons.

b. Very Low Temperature Refrigeration. Medical freezers, freeze-dryers, and other small appliances require extremely reliable refrigeration cycles. These systems must meet stringent technical standards that do not normally apply to refrigeration systems. They usually have very small charges. Because they operate at very high vapor pressures, and because performance is critically affected by any charge loss, standard maintenance for these systems tends to reduce leakage to a level considerably below that for other types of refrigeration and air conditioning equipment.

c. CFC–13, R–13B1, and R–503 Industrial Process Refrigeration. This end-use differs from other types of industrial refrigeration only in the extremely low temperature regimes that are required. Although some substitutes may work in both these extremely low temperatures and in systems designed to use R–502, they are acceptable only for this end-use because of global warming and atmospheric lifetime concerns. These concerns are discussed more fully below.

2. Substitutes for Refrigerants

Substitutes fall into eight broad categories. Seven of these categories are chemical substitutes used in the same vapor compression cycle as the ozone-depleting substances being replaced. They include hydrochlorofluorocarbons (HCFCs), hydrofluorocarbons (HFCs), hydrocarbons, refrigerant blends, ammonia, perfluorocarbons (PFCs), and chlorine systems. The eighth category includes alternative technologies that generally do not rely on vapor compression cycles. Please refer to the final SNAP rule (59 *FR* 13044) for more discussion of these broad categories.

a. Acceptable Subject to Use Conditions. (1) CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New. EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, a smooth transition to the use of substitutes strongly depends on the continued purity of the recycled CFC–12 supply. In order to prevent cross-contamination and preserve the purity of recycled refrigerants, EPA is proposing several conditions on the use of all motor vehicle air conditioning refrigerants. For the purposes of this rule, no distinction is made between "retrofit" and "drop-in" refrigerants; retrofitting a car to use a new refrigerant includes all procedures that result in the air conditioning system using a new refrigerant.

In particular, when retrofitting a CFC–12 system to use any substitute refrigerant, the following conditions must be met:

• Each refrigerant may only be used with a set of fittings that is unique to that refrigerant. These fittings (male or female, as appropriate) must be used with all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. These fittings must be designed to mechanically prevent cross-charging with another refrigerant. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant. Using an adapter or deliberately modifying a fitting to use a different refrigerant will be a violation of this use condition. In addition, fittings shall meet the following criteria, derived from Society of Automotive Engineers (SAE) standards and recommended practices:

—When existing CFC–12 service ports are to be retrofitted, conversion assemblies shall attach to the CFC–12 fitting with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that permanently prevents the assembly from being removed.

—All conversion assemblies and new service ports must satisfy the vibration testing requirements of sections 3.2.1 or 3.2.2 of SAE J1660, as applicable, excluding references to SAE J639 and SAE J2064, which are specific to HFC–134a.

—In order to prevent discharge of refrigerant to the atmosphere, systems shall have a device to limit compressor operation before the pressure relief device will vent refrigerant. This requirement is waived for systems that do not feature such a pressure relief device.

—All CFC–12 service ports shall be retrofitted with conversion assemblies or shall be rendered permanently incompatible for use with CFC–12 related service equipment by fitting with a device attached with a thread lock adhesive and/or a separate mechanical latching mechanism in a manner that prevents the device from being removed.

• When a retrofit is performed, a label must be used as follows:

—The person conducting the retrofit must apply a label to the air conditioning system in the engine compartment that contains the following information:

*—the name and address of the technician and the company performing the retrofit

*—the date of the retrofit

*—the trade name, charge amount, and, when applicable, the ASHRAE refrigerant numerical designation of the refrigerant

*—the type, manufacturer, and amount of lubricant used

*—if the refrigerant is or contains an ozone-depleting substance, the statement "This refrigerant contains an ozone-depleting substance and it is therefore subject to the venting prohibition, recycling, and other provisions of regulations issued under section 609 of the Clean Air Act."

*—if the refrigerant is not or does not contain any ozone-depleting substances, the statement "This refrigerant does not deplete stratospheric ozone, and as of November 15, 1995, at the latest, it is subject to the venting prohibition, recycling, and other provisions of regulations issued under section 609 of the Clean Air Act."

*—if the refrigerant displays flammability limits as measured according to ASTM E681, the statement "This refrigerant is FLAMMABLE. Take appropriate precautions."

—This label must be large enough to be easily read and must be permanent.

—The background color must be unique to the refrigerant.

—The label must be affixed to the system over information related to the previous refrigerant, in a location not normally replaced during vehicle repair.

—Information on the previous refrigerant that cannot be covered by the new label must be permanently rendered unreadable.

• No substitute refrigerant may be used to "top-off" a system that uses another refrigerant. The original refrigerant must be recovered in accordance with regulations issued under section 609 of the CAA prior to charging with a substitute.

Since these use conditions necessitate unique fittings and labels, it will be necessary for developers of automotive refrigerants to consult with EPA about the existence of other alternatives. Such discussions will lower the risk of duplicating fittings already in use.

No determination guarantees satisfactory performance from a

refrigerant. Consult the original equipment manufacturer or service personnel for further information on using a refrigerant in a particular system.

(a) HFC–134a. *HFC–134a is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above.* HFC–134a does not contribute to ozone depletion. HFC–134a's GWP and atmospheric lifetime are close to those of other alternatives which have been determined to be acceptable for this end-use. However, HFC–134a's contribution to global warming could be significant in leaky end-uses such as motor vehicle air conditioning systems (MVACS). EPA has determined that the use of HFC–134a in these applications is acceptable because industry continues to develop technology to limit emissions. In addition, the number of available substitutes for use in MVACS is currently limited. HFC–134a is not flammable and its toxicity is low. While HFC–134a is compatible with most existing refrigeration and air conditioning equipment parts, it is not compatible with the mineral oils currently used in such systems. An appropriate ester-based, polyalkylene glycol-based, or other type of lubricant should be used. Consult the original equipment manufacturer or the retrofit kit manufacturer for further information.

(b) R–401C. *R–401C, which consists of HCFC–22, HFC–152a, and HCFC–124, is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above.* HCFC–22 and HCFC–124 contribute to ozone depletion, but to a much lesser degree than CFC–12. The production of HCFC–22 will be phased out according to the accelerated phaseout schedule (published 12/10/93, 58 FR 65018). The GWP of HCFC–22 is somewhat higher than other alternatives for this end-use. Experimental data indicate that HCFC–22 may leak through flexible hosing in mobile air conditioners at a high rate. In order to preserve the blend's composition and to reduce its contribution to global warming, EPA strongly recommends using barrier hoses when hose assemblies need to be replaced during a retrofit procedure. The GWPs of the other components are low. Although this blend does contain one flammable constituent, the blend itself is not flammable. Leak testing demonstrated that the blend never becomes flammable.

(c) HCFC Blend Beta. *HCFC Blend Beta is acceptable as a substitute for CFC–12 in retrofitted and new motor vehicle air conditioners, subject to the use conditions applicable to motor vehicle air conditioning described above.* The composition of this blend has been claimed confidential by the manufacturer. This blend contains at least one HCFC, and therefore contributes to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 609 of the Clean Air Act apply to this blend. Its production will be phased out according to the accelerated schedule (published 12/10/93, 58 FR 65018). The GWPs of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

b. Acceptable Subject to Narrowed Use Limits. (1) Non-mechanical Heat Transfer, New and Retrofit.

(a) Perfluorocarbons. *Perfluorocarbons are proposed acceptable as substitutes for CFC–11, CFC–12, CFC–113, CFC–114, and CFC–115 in new and retrofitted thermosyphons and recirculating coolers only where no other alternatives are technically feasible due to safety or performance requirements.* PFCs covered by this determination are C_3F_8, C_4F_{10}, C_5F_{12}, $C_5F_{11}NO$, C_6F_{14}, $C_6F_{13}NO$, C_7F_{16}, $C_7F_{15}NO$, C_8F_{18}, $C_8F_{16}O$, AND $C_9F_{21}N$. PFCs offer high dielectric resistance and they are low in toxicity and nonflammable. The principal characteristic of concern for PFCs is that they have long atmospheric lifetimes and have the potential to contribute to global climate change. For instance, C_5F_{12} has a lifetime of 4,100 years and a 100-year GWP of 5,600. PFCs are also included in the Climate Change Action Plan which broadly instructs EPA to use section 612 of the CAA, as well as voluntary programs, to control emissions. Despite these concerns, EPA is proposing to list PFCs as acceptable in certain small applications because they may be the only substitutes that can satisfy safety or performance requirements. For example, a transformer may require very high dielectric strength, or a heat transfer system for a chlorine manufacturing process could require compatibility with the process stream.

Users should note, however, that use of a PFC should be a last resort. As the proposed determination states, PFCs should be used "only where no other alternatives are technically feasible due to safety or performance requirements." This statement requires users to conduct a thorough search for other substitutes. Although EPA does not require users to submit information on such a search, companies must keep the results on file for future reference.

In cases where users must adopt PFCs, they should make every effort to:

- Recover and recycle these fluids during servicing
- Adopt maintenance practices that reduce leakage as much as is technically feasible
- Recover these fluids after the end of the equipment's useful life and either recycle them or destroy them
- Continue to search for other long-term alternatives

Users of PFCs should note that if other alternatives become available, EPA could be petitioned to list PFCs as unacceptable due to the availability of other suitable substitutes. If such a petition were granted, EPA may grandfather existing uses but only upon consideration of cost and timing of testing and implementation of new substitutes. In addition, while this listing allows for use of PFCs in some new systems, a petition indicating widespread design of systems using PFCs where other alternatives exist could adversely impact any grandfathering decisions.

EPA believes these end-uses are covered under section 608 of the CAA and encourages voluntary compliance with the recycling and leak repair provisions of that rule until new rulemakings specifically address non-ozone-depleting refrigerants.

c. Unacceptable Substitutes.

(1) R–403B

R–403B, which consists of HCFC–22, R–218, and propane, is proposed unacceptable as a substitute for R–502 in the following new and retrofitted end-uses:

- industrial process refrigeration;
- cold storage warehouses;
- refrigerated transport;
- retail food refrigeration;
- commercial ice machines; and
- household freezers.

R–218, perfluoropropane, has an extremely high GWP and lifetime. Although this substitute may offer energy efficiency gains, its lifetime and direct GWP pose additional risk beyond that of other substitutes for these end-uses. In particular, the lifetime of R–218 is over 2000 years, which means that global warming and other effects would be essentially irreversible. EPA believes that while other substitutes may have high GWPs, they do not exhibit such long lifetimes.

(2) R–405A

R–405A, which is composed of HCFC–22, HFC–152a, HCFC–142b, and R–c318,

is proposed unacceptable as a substitute for CFC–12, R–500, and R–502 in the following new and retrofitted end-uses:

- commercial comfort air conditioning;
- industrial process refrigeration;
- ice skating rinks;
- cold storage warehouses;
- refrigerated transport;
- retail food refrigeration;
- vending machines;
- water coolers;
- commercial ice machines;
- household refrigerators;
- household freezers;
- residential dehumidifiers; and
- motor vehicle air conditioning.

R–405A was listed as HCFC/HFC/fluoroalkane Blend A in previous notices. R–405A contains a high proportion of R–c318, cycloperfluorobutane, which has an extremely high GWP and lifetime. Although this substitute may offer energy efficiency gains, its lifetime and direct GWP pose additional risk beyond that of other substitutes for these end-uses. In particular, the lifetime of R–c318 is over 3000 years, which means that global warming and other effects would be essentially irreversible. EPA believes that while other substitutes may have high GWPs, they do not exhibit such long lifetimes.

(3) Hydrocarbon Blend B

Hydrocarbon Blend B is proposed unacceptable as a substitute for CFC–12 in the following new and retrofitted end-uses:

- commercial comfort air conditioning;
- ice skating rinks;
- cold storage warehouses;
- refrigerated transport;
- retail food refrigeration;
- vending machines;
- water coolers;
- commercial ice machines;
- household refrigerators;
- household freezers;
- residential dehumidifiers; and
- motor vehicle air conditioning.

Flammability is the primary concern. EPA believes the use of this substitute in very leaky uses like motor vehicle air conditioning may pose a high risk of fire. EPA requires a risk assessment be conducted to demonstrate this blend may be safely used in any CFC–12 end-uses. The manufacturer of this blend has not submitted such a risk assessment, and EPA therefore finds it unacceptable.

(4) Flammable Substitutes

Flammable substitutes, defined as having flammability limits as measured according to ASTM E–681 with modifications included in Society of Automotive Engineers Recommended Practice J1657, including blends which become flammable during fractionation, are proposed unacceptable as substitutes for CFC–12 in retrofitted motor vehicle air conditioning systems.

Flammable refrigerants differ from traditional substances in several ways: potential gains in energy efficiency, reductions in direct contribution to global warming, and additional risks from fire. Flammable refrigerants may be good substitutes in systems designed with fire risks in mind. In addition, in certain circumstances, they may serve well as substitutes in retrofit uses. EPA encourages research efforts into the use of flammable refrigerants, but remains concerned about the dangers. Because of these concerns, EPA has established the requirement that manufacturers of flammable refrigerants conduct detailed risk assessments in all end-uses. The risks from flammability are extremely sensitive to the size of charge and end-use.

In MVACS, flammable refrigerants pose risks not found in stationary equipment, including the potential for collisions, the placement of the condenser directly behind the grille, flexible hoses which could be punctured, the hazard to technicians who are expecting to handle flammable fluids, the danger to passengers from evaporator leaks, and the dangers to personnel involved in disposal of old automobiles. Due to the length of SNAP review, certain substitutes have been marketed which EPA believes may pose substantial risk to users. The intent of the 90-day review process was not to allow manufacturers to market risky substitutes, but rather to ensure a thorough review. Because of potential risks to users and service personnel, EPA finds it necessary to find all flammable substitutes unacceptable in retrofitted automotive air conditioning to prevent hazardous substitutes from being marketed prior to a thorough risk assessment.

EPA continues to encourage investigation of all substitute refrigerants, including flammable substances. This unacceptable determination only applies to retrofitted MVACS. If a manufacturer wishes an acceptable determination for a flammable substitute in MVACS, this risk assessment must be conducted in a scientifically valid manner. EPA will consider such a risk assessment in any determination on the substitute.

B. Solvents

1. Acceptable Subject to Use Conditions

a. Electronics Cleaning. (1) HCFC–225 ca/cb. *HCFC–225 is proposed acceptable subject to use conditions as a substitute for CFC–113 and MCF in electronics cleaning.* The HCFC–225 ca isomer has a company-set exposure limit of 25 ppm. The company set exposure limit of the HCFC–225 cb isomer is 250 ppm. These limits should be readily achievable since HCFC–225 is only sold commercially as a (45%/50%) blend of –ca and –cb isomers. In addition, the vapor degreasing and cold cleaning equipment where HCFC–225 is used, typically has very low emissions.

b. Precision Cleaning. (1) HCFC–225 ca/cb. *HCFC–225 is proposed acceptable subject to use conditions as a substitute for CFC–113 and MCF in precision cleaning.* The HCFC–225 ca isomer has a company-set exposure limit of 25 ppm. The company set exposure limit of the HCFC–225 cb isomer is 250 ppm. These limits should be readily achievable since HCFC–225 is only sold commercially as a (45%/50%) blend of –ca and –cb isomers. In addition, the vapor degreasing and cold cleaning equipment where HCFC–225 is used, typically has very low emissions.

2. Unacceptable Substitutes

a. Metals Cleaning. (1) Dibromomethane. *Dibromomethane is proposed as an unacceptable substitute for CFC–113 and MCF in metals cleaning.* Dibromomethane has a comparatively high ODP and other alternatives exist which do not pose comparable risk.

b. Electronics Cleaning. (2) Dibromomethane. *Dibromomethane is proposed as an unacceptable substitute for CFC–113 and MCF in electronics cleaning.* Dibromomethane has a comparatively high ODP and other alternatives exist.

c. Precision Cleaning. (3) Dibromomethane. *Dibromomethane is proposed as an unacceptable substitute for CFC–113 and MCF in precision cleaning.* Dibromomethane has a comparatively high ODP and other alternatives exist.

C. Fire Suppression and Explosion Protection

1. Proposed Acceptable Subject to Use Conditions

a. Total Flooding Agents. (1) C_3F_8. *C_3F_8 is proposed acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) Due to their physical or chemical*

properties or (b) where human exposure to the agents may approach cardiosensitization levels or result in other unacceptable health effects under normal operating conditions. This proposed agent is subject to the same use conditions stipulated for all total flooding agents, that is:

- Where egress from an area cannot be accomplished within one minute, the employer shall not use this agent in concentrations exceeding its NOAEL.
- Where egress takes longer than 30 seconds but less than one minute, the employer shall not use the agent in a concentration greater than its LOAEL.
- Agent concentrations greater than the LOAEL are only permitted in areas not normally occupied by employees provided that any employee in the area can escape within 30 seconds. The employer shall assure that no unprotected employees enter the area during agent discharge.

Cup burner tests in heptane indicate that C_3F_8 can extinguish fires in a total flood application at concentrations of 7.30 per cent and therefore has a design concentration of 8.8 per cent. The cardiotoxicity NOAEL of 30 per cent for this agent is well above its extinguishment concentration and therefore is safe for use in occupied areas. This agent can replace Halon 1301 by a ratio of 2 to 1 by weight.

Using agents in high concentrations poses a risk of asphyxiation by displacing oxygen. With an ambient oxygen level of 21 per cent, a design concentration of 22.6 per cent may reduce oxygen levels to approximately 16 per cent, the minimum level considered to be required to prevent impaired judgement or other physiological effects. Thus, the oxygen level resulting from discharge of this agent must be at least 16 per cent.

C_3F_8 has no ozone depletion potential, and is nonflammable, essentially non-toxic, and is not a VOC. However, this agent has an atmospheric lifetime of 3,200 years and a 100-year GWP of 6100. Due to the long atmospheric lifetime of C_3F_8, the Agency is finding this chemical acceptable only in those limited instances where no other alternative is technically feasible due to performance or safety requirements. In most total flooding applications, the Agency believes that alternatives to C_3F_8 exist. EPA intends that users select C_3F_8 out of need and that this agent be used as the agent of last resort. Thus, a user must determine that the requirements of the specific end-use preclude use of other available alternatives.

Users must observe the limitations on C_3F_8 acceptability by undertaking the following measures: (i) conduct an evaluation of foreseeable conditions of end use; (ii) determine that human exposure to the other alternative extinguishing agents may approach or result in cardiosensitization or other unacceptable toxicity effects under normal operating conditions; and (iii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use.

EPA recommends that users minimize unnecessary emissions of this agent by limiting testing of C_3F_8 to that which is essential to meet safety or performance requirements; recovering C_3F_8 from the fire protection system in conjunction with testing or servicing; and destroying or recycling C_3F_8 for later use. EPA encourages manufacturers to develop aggressive product stewardship programs to help users avoid such unnecessary emissions.

(2) CF_3I. *CF_3I is proposed acceptable as a Halon 1301 substitute in normally unoccupied areas.* Any employee that could possibly be in the area must be able to escape within 30 seconds. The employer shall assure that no unprotected employees enter the area during agent discharge.

CF_3I (Halon 13001) is a fluoroiodocarbon with an atmospheric lifetime of only 1.15 days due to its rapid photolysis in the presence of light. The resulting GWP of this agent is less than one, and its ODP when released at ground level is likely to be extremely low, with current conservative estimates ranging from .008 to .01. Complete analysis of the ozone depleting potential of this agent will be available in the near future.

Anticipating EPA's concern about releases of CF_3I from aircraft, and the associated likelihood of a higher ODP value when released at altitude, the military has conducted an analysis of historical releases of Halon 1301 from both military and commercial aircraft. Initial assessment indicate that emissions from U.S. military aircraft appear to have averaged about 56 pounds annually, of which 2 pounds were emitted above 30,000 feet. Commercial aircraft worldwide released an estimated average of 933 pounds of Halon 1301 annually, of which 158 pounds was released above 30,000 feet. While EPA is awaiting the results of the ODP calculations of CF_3I, it is unlikely that such low emissions at high altitude will pose a significant threat to the ozone layer.

Interest in this agent is very high because it may constitute a drop-in replacement to Halon 1301 on a weight and volume basis. Initial tests have shown its weight equivalence for fire extinguishment to be 1.36, and its volume equivalence to be 1.0, while for explosion inertion it is 1.42 and 1.04 respectively. The research community is continuing to qualify the properties of this agent, including its materials compatibility, its storage stability and its effectiveness. While the manufacturer's SNAP submission only requests listing in normally unoccupied areas, preliminary cardiosensitization data received by the Agency indicate that CF_3I has a NOAEL of 0.2 per cent and a LOAEL of 0.4 per cent, and thus this agent would not suitably be for use in normally occupied areas.

(3) Gelled Halocarbon/Dry Chemical Suspension. *Gelled Halocarbon/Dry Chemical Suspension is proposed acceptable as a Halon 1301 substitute in normally unoccupied areas.* Any employee who could possibly be in the area must be able to escape within 30 seconds. The employer shall assure that no unprotected employees enter the area during agent discharge.

The manufacturer is proposing to blend either of two halocarbons (HFC–125 or HFC–134a) with either ammonium polyphosphate (which is not corrosive) or monoammonium phosphate (which is corrosive on hard surfaces). An initial assessment of inhalation toxicology of fine particulates indicates that some risk exists of inhalation exposure when the particles are below a certain size compared to the mass per cubic meter in air. Particle sizes less than 10 to 15 microns and a mass above the ACGIH nuisance dust levels raise concerns which need to be further studied. In a total flooding application, the exposure levels may be of concern. In addition, because the discharge of powders obscures vision, evacuation could be impeded. EPA is asking manufacturers of total flooding systems using powdered aerosols to submit to the Agency a review of the medical implications of inhaling atmospheres flooded with fine powder particulates. While the manufacturer requested a SNAP listing for unoccupied areas only, EPA would not consider its use in occupied areas until the requested peer review is complete. Meanwhile, EPA is finding this technology acceptable for use in normally unoccupied areas.

For further discussion of this agent, including a review of particle size distributions, see the listing under "Streaming Agents—Acceptable."

(4) Inert Gas/Powdered Aerosol Blend. *Inert Gas/Powdered Aerosol Blend is acceptable as a Halon 1301 substitute in normally unoccupied areas.* In areas where personnel could possibly be present, as in a cargo area.

the employer shall provide a pre-discharge employee alarm capable of being perceived above ambient light or noise levels for alerting employees before system discharge. The pre-discharge alarm shall provide employees time to safely exit the discharge area prior to system discharge.

This alternative agent is formulated from a mixture of dry powders pressed together into pill form. Upon exposure to heat from a fire, a pyrotechnic charge initiates a series of exothermic, gas-producing reactions composed mainly of a mixture of nitrogen, carbon dioxide and water vapor, with small amounts of carbon monoxide, nitrous oxide, nitrogen dioxide, and solid residues. The oxygen level in the room is largely depleted, thus extinguishing the fire.

The manufacturer has proposed this technology for use in normally unoccupied areas only, such as engine nacelles and engine compartments, aircraft dry bay areas and unoccupied cargo areas. Comparing agents alone, deployment of 2.0 pounds of this agent at 400°F has an equivalent fire suppression effectiveness to 1.0 pound of Halon 1301 at 70°F.

This agent has no ODP. The carbon dioxide generated in the combustion of this agent has a GWP of 1.

2. Proposed Acceptable Subject to Narrowed Use Limits

a. Total Flooding Agents. (1) C_3F_8. *C_3F_8 is proposed acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: a) due to their physical or chemical properties or b) where human exposure to the agents may approach cardiosensitization levels or result in other unacceptable health effects under normal operating conditions.* This agent is subject to the use conditions stipulated for all total flooding agents, that is:

- Where egress from an area cannot be accomplished within one minute, the employer shall not use this agent in concentrations exceeding its NOAEL.
- Where egress takes longer than 30 seconds but less than one minute, the employer shall not use the agent in a concentration greater than its LOAEL.
- Agent concentrations greater than the LOAEL are only permitted in areas not normally occupied by employees provided that any employee in the area can escape within 30 seconds. The employer shall assure that no unprotected employees enter the area during agent discharge.

Cup burner tests in heptane indicate that C_3F_8 can extinguish fires in a total flood application at concentrations of 7.30 per cent and therefore has a design concentration of 8.8 per cent. The cardiotoxic NOAEL of 30 per cent for this agent is well above its extinguishment concentration; therefore, it is safe for use in occupied areas. This agent has a weight equivalence of two-to-one by weight compared to Halon 1301.

Using agents in high concentrations poses a risk of asphyxiation by displacing oxygen. With an ambient oxygen level of 21 per cent, a design concentration of 22.6 per cent may reduce oxygen levels to approximately 16 per cent, the minimum level considered to be required to prevent impaired judgement or other physiological effects. Thus, the oxygen level resulting from discharge of this agent must be at least 16 per cent.

This agent has an atmospheric lifetime of 3,200 years and a 100-year GWP of 6,100. Due to the long atmospheric lifetime of C_3F_8, the Agency is finding this chemical acceptable only in those limited instances where no other alternative is technically feasible due to performance or safety requirements. In most total flooding applications, the Agency believes that alternatives to C_3F_8 exist. EPA intends that users select C_3F_8 out of need and that this agent be used as the agent of last resort. Thus, a user must determine that the requirements of the specific end-use preclude use of other available alternatives.

Users must observe the limitations on C_3F_8 acceptability by undertaking the following measures: (i) conduct an evaluation of foreseeable conditions of end use; (ii) determine that human exposure to the other alternative extinguishing agents may approach or result in cardiosensitization or other unacceptable toxicity effects under normal operating conditions; and (iii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use.

EPA recommends that users minimize unnecessary emissions of this agent by limiting testing of C_3F_8 to that which is essential to meet safety or performance requirements; recovering C_3F_8 from the fire protection system in conjunction with testing or servicing; and destroying or recycling C_3F_8 for later use. EPA encourages manufacturers to develop aggressive product stewardship programs to help users avoid such unnecessary emissions.

(2) Sulfur Hexafluoride (SF_6). *SF_6 is acceptable for use as a discharge test agent in military uses only.* Sulfur Hexafluoride is a nonflammable, nontoxic gas which is colorless and odorless. With a density of approximately five times that of air, it is one of the heaviest known gases. SF_6 is relatively inert, and has an atmospheric lifetime of 3,200 years, with a 100-year, 500-year, and 1,000-year GWP of 16,100, 26,110 and 32,803 respectively.

This agent has been developed by the U.S. Navy as a test gas simulant in place of halon in new halon total flooding systems on ships which have been under construction prior to identification and qualification of substitute agents. Halon systems are no longer included in designs for new ships. The Navy estimates its annual usage to be less than 10,000 pounds annually, decreasing over time. Thus, the Agency believes that the quantities involved are not significant.

While SF_6 is not currently used in the commercial sector and new halon systems are rarely installed, EPA is proposing a narrowed use limit to ensure that emissions of this agent remain minimal. The NFPA 12a and NFPA 2001 standards recommend that halon or other total flooding gases not be used in discharge testing, but that alternative methods of ensuring enclosure and piping integrity and system functioning be used. Alternative methods can often be used, such as the "door fan" test for enclosure integrity, UL 1058 testing to ensure system functioning, pneumatic test of installed piping, and a "puff" test to ensure against internal blockages in the piping network. These stringent design and testing requirements have largely obviated the need to perform a discharge test for total flood systems containing either Halon 1301 or a substitute agent.

3. Proposed Unacceptable

a. Total Flooding. (1) HFC–32. *HFC–32 is proposed unacceptable as a total flooding agent.* HFC–32 has been determined to be flammable, with a large flammability range, and is therefore inappropriate as a halon substitute when used as a pure agent. This agent was proposed acceptable in the first SNAP proposed rulemaking (58 FR 28093, May 12, 1993) but public comment received indicated agreement about the flammability characteristics of this agent. EPA is not aware of any interest in commercializing this agent as a fire suppression agent.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735; October 4, 1993) the Agency must determine whether the regulatory

action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that federal agencies examine the effects of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a final rule-making, it must prepare a regulatory flexibility analysis (RFA). Such an analysis is not required if the head of the Agency certifies that a rule will not have a significant economic effect on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The agency believes that this final rule will not have a significant effect on a substantial number of small entities and has therefore concluded that a formal RFA is unnecessary. Because costs of the SNAP requirements as a whole are expected to be minor, the rule is unlikely to adversely affect businesses, particularly as the rule exempts small sectors and end-uses from reporting requirements and formal Agency review. In fact, to the extent that information gathering is more expensive and time-consuming for small companies, this rule may well provide benefits for small businesses anxious to examine potential substitutes to any ozone-depleting class I and class II substances they may be using, by requiring manufacturers to make information on such substitues available.

C. Paperwork Reduction Act

The EPA has determined that this proposed rule contains no information requirements subject to the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

V. Additional Information

Contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday-Friday, between the hours of 10 a.m. and 4 p.m. (EST).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). **Federal Register** notices can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. Notices and rulemaking under the SNAP program can also be retrieved electronically from EPA's Technology Transfer Network (TTN), Clean Air Act Amendment Bulletin Board. The access number for users with a 1200 or 2400 bps modem is (919) 541–5742. For users with a 9600 bps modem the access number is (919) 541–1447. For assistance in accessing this service, call (919) 541–5384 during normal business hours (EST).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirments.

Dated: September 16, 1994.

Carol M. Browner,

Administrator.

Appendix A to the Preamble: Summary of Proposed Decisions

REFRIGERANTS—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS

End-Use	Substitute	Decision	Comments
CFC–12 Automobile Motor Vehicle Air Conditioning (Retrofit and New Equipment/NIKS).	HFC–134a, R–401C, HCFC Blend Beta.	Proposed acceptable when (1) used with unique fittings and detailed labels and (2) all CFC–12 has been removed from the system prior to retrofitting. Refer to the text for a full description..	EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, a smooth transition to the use of substitutes strongly depends on the continued purity of the recycled CFC–12 supply. For the purposes of this rule, no distinction is made between "retrofit" and "drop-in" refrigerants; retrofitting a car to use a new refrigerant includes all procedures that result in the air conditioning system using a new refrigerant.

REFRIGERANTS—PROPOSED ACCEPTABLE SUBJECT TO NARROWED USE LIMITS

End-Use	Substitute	Decision	Comments
CFC–11, CFC–12, CFC–113, CFC–114, CFC–115 Non-Mechanical Heat Transfer (Retrofit and New).	C_3F_8, C_4F_{10}, C_6F_{12}, $C_6F_{11}NO$, C_6F_{14}, $C_6F_{13}NO$, C_7F_{16}, $C_7F_{15}NO$, C_8F_{18}, $C_8F_{16}O$, AND $C_9F_{21}N$.	Proposed acceptable only where no other alternatives are technically feasible due to safety or performance requirements.	Users must observe the limitations on PFC acceptability by determining that the physical or chemical properties or other technical constraints of the other available agents preclude their use. Documentation of such measures must be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes.

REFRIGERANTS—PROPOSED UNACCEPTABLE SUBSTITUTES

End-Use	Substitute	Decision	Comments
CFC–11, CFC–12, CFC–113, CFC–114, R–500 Centrifugal Chillers (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12 Reciprocating Chillers (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R-c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–11, CFC–12, R–502 Industrial Process Refrigeration (Retrofit and New Equipment/NIKs).	R–403B	Proposed Unacceptable.	R–403B contains R–218, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	R–405A	Proposed Unacceptable.	R–405A contains R-c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
CFC–12, R–502 Ice Skating Rinks (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R-c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12, R–502 Cold Storage Warehouses (Retroit and New Equipment/NIKs).	R–403B	Proposed Unacceptable.	R–403B contains R–218, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	R–405A	Proposed Unacceptable.	R–405A contains R-c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12, R–500, R–502 Refrigerated Transport (Retrofit and New Equipment/NIKs).	R–403B	Proposed Unacceptable.	R–403B contains R–218, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	R–405A	Proposed Unacceptable.	R–405A contains R-c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12, R–502 Retail Food Refrigeration (Retrofit and New Equipment/NIKs).	R–403B	Proposed Unacceptable.	R–403B contains R–218, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	R–405A	Proposed Unacceptable.	R–405A contains R-c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.

REFRIGERANTS—PROPOSED UNACCEPTABLE SUBSTITUTES—Continued

End-Use	Substitute	Decision	Comments
CFC–12, R–502 Commercial Ice Machines (Retrofit and New Equipment/NIKs).	R–403B	Proposed Unacceptable.	R–403B contains R–218, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12 Vending Machines (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12 Water Coolers (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12 Household Refrigerators (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12, R–502 Household Freezers (Retrofit and New Equipment/NIKs).	R–403B	Proposed Unacceptable.	R–403B contains R–218, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12, R–500 Residential Dehumidifiers (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
CFC–12 Motor Vehicle Air Conditioners (Retrofit and New Equipment/NIKs).	R–405A	Proposed Unacceptable.	R–405A contains R–c318, a PFC, which has an extremely high GWP and lifetime. Other substitutes exist which do not contain PFCs.
	Hydrocarbon Blend Beta.	Proposed Unacceptable.	Flammability is a serious concern. Data have not been submitted to demonstrate it can be used safely in this end-use.
	Flammable Substitutes.	Proposed Unacceptable.	The risks associated with using flammable substitutes in this end-use have not been addressed by a risk assessment.

SOLVENT CLEANING SECTOR—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS SUBSTITUTES

Application	Substitute	Decision	Conditions	Comments
Electronics Cleaning w/CFC–113, MCF.	HCFC–225 ca/cb ..	Acceptable	Subject to the company set exposure limit of 25 ppm of the –ca isomer.	HCFC–225 ca/cb blend is offered as a 45%–ca/55%–cb blend. The company set exposure limit of the –ca isomer is 25 ppm. The company set exposure limit of the –cb isomer is 250 ppm. It is the Agency's opinion that with the low emission cold cleaning and vapor degreasing equipment designed for this use, the 25 ppm limit of the HCFC–225 ca isomer can be met. The company is submitting further exposure monitoring data.
Precision Cleaning w/CFC–113, MCF.	HCFC–225 ca/cb ..	Acceptable	Subject to the company set exposure limit of 25 ppm of the –ca isomer.	HCFC–225 ca/cb blend is offered as a 45%–ca/55%–cb blend. The company set exposure limit of the –ca isomer is 25 ppm. The company set exposure limit of the –cb isomer is 250 ppm. It is the Agency's opinion that with the low emission cold cleaning and vapor degreasing equipment designed for this use, the 25 ppm limit of the HCFC–225 ca isomer can be met. The company is submitting further exposure monitoring data.

SOLVENT CLEANING SECTOR—PROPOSED UNACCEPTABLE SUBSTITUTES

End use	Substitute	Decision	Comments
Metals cleaning w/ CFC–113.	Dibromomethane ...	Unacceptable	High ODP; other alternatives exist.
Metals cleaning w/ MCF.	Dibromomethane ...	Unacceptable	High ODP; other alternatives exist.
Electronics cleaning w/CFC–113.	Dibromomethane ...	Unacceptable	High ODP; other alternatives exist.
Electronics cleaning w/MCF.	Dibromomethane ...	Unacceptable	High ODP; other alternatives exist.
Precision cleaning w/CFC–113.	Dibromomethane ...	Unacceptable	High ODP; other alternatives exist.
Precision cleaning w/MCF.	Dibromomethane ...	Unacceptable	High ODP; other alternatives exist.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS: TOTAL FLOODING AGENTS

Application	Substitute	Decision	Conditions	Comments
Halon 1301 ..... Total flooding agents	C_3F_8	Proposed acceptable where other alternatives are not technically feasible due to performance or safety requirements: a. due to their physical or chemical properties, or b. where human exposure to the extinguishing agents may approach cardiosensitization levels or result in other unacceptable health effects under normal operating conditions ..	Until OSHA establishes applicable workplace requirements, EPA proposes: For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 30. Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e. for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C_3F_8 exceeds 30%. Design concentration must result in oxygen levels of at least 16%.	The comparative design concentration based on cup burner values is approximately 8.8%. Users must observe the limitations on PFC acceptability by making reasonable efforts to undertake the following measures: (i) conduct an evaluation of foreseeable conditions of end use; (ii) determine that human exposure to the other alternative extinguishing agents may approach or result in cardiosensitization or other unacceptable toxicity effects under normal operating conditions; and (iii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; Documentation of such measures must be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 Rulemaking (59 FR 13043). See additional comments 1, 2, 3, 4.
	CF_3I	Proposed acceptable in normally unoccupied areas.	EPA proposes that any employee who could possibly be in the area must be able to escape within 30 seconds. The employer shall assure that no unprotected employees enter the area during agent discharge.	Manufacturer has not applied for listing for use in normally occupied areas. Preliminary cardiosensitization data indicates that this agent would not be suitable for use in normally occupied areas. EPA is awaiting results of ODP calculations. See additional comments 1, 2, 3, 4.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—PROPOSED ACCEPTABLE SUBJECT TO USE CONDITIONS: TOTAL FLOODING AGENTS—Continued

Application	Substitute	Decision	Conditions	Comments
	Gelled halocarbon/dry chemical suspension.	Proposed acceptable in normally unoccupied areas.	EPA proposes that any employee who could possibly be in the area must be able to escape within 30 seconds. The employer shall assure that no unprotected employees enter the area during agent discharge.	The manufacturer's SNAP application requested listing for use in unoccupied areas only. See additional comment 2
	Inert gas/powdered aerosol blend.	Proposed acceptable as a Halon 1301 substitute in normally unoccupied areas.	In areas where personnel could possibly be present, as in a cargo area, EPA proposes that the employer shall provide a pre-discharge employee alarm capable of being perceived above ambient light or noise levels for alerting employees before system discharge. The pre-discharge alarm shall provide employees time to safely exit the discharge area prior to system discharge.	The manufacturer's SNAP application requested listing for use in unoccupied areas only. See additional comment 2.

Additional Comments

1—Must conform with OSHA 29 CFR 1910 Subpart L Section 1910.160 of the U.S. Code.

2—Per OSHA requirements, protective gear (SCBA) must be available in the event personnel must enter/reenter the area.

3—Discharge testing should be strictly limited only to that which is essential to meet safety or performance requirements.

4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—PROPOSED ACCEPTABLE SUBJECT TO NARROWED USE LIMITS: TOTAL FLOODING AGENTS

Application	Substitute	Decision	Conditions	Comments
Halon 1301 ..... Total flooding agents	C_3F_8	Proposed acceptable where other alternatives are not technically feasible due to performance or safety requirements: a. due to their physical or chemical properties, or b. where human exposure to the extinguishing agents may approach cardiosensitization levels or result in other unacceptable health effects under normal operating conditions.	Until OSHA establishes applicable workplace requirements: For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 30%. Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e. for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C_3F_8 exceeds 30%. Design concentration must result in oxygen levels of at least 16%.	The comparative design concentration based on cup burner values is approximately 8.8%. Users must observe the limitations on PFC acceptability by making reasonable efforts to undertake the following measures: (i) conduct an evaluation of foreseeable conditions of end use; (ii) determine that human exposure to the other alternative extinguishing agents may approach or result in cardiosensitization or other unacceptable toxicity effects under normal operating conditions; and (iii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; Documentation of such measures must be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 Final Rulemaking (58 FR 13043).
	Sulfurhexafluoride (SF_6).	Proposed acceptable as a discharge test agent in military uses only.	.....	This agent has an atmospheric lifetime greater than 1,000 years, with an estimated 100-year, 500-year, and 1,000-year GWP of 16,100, 26,110, and 32,803 respectively. Users should limit testing only to that which is essential to meet safety or performance requirements. This agent is only used to test new Halon 1301 systems.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—PROPOSED UNACCEPTABLE SUBSTITUTES

Application	Substitute	Decision	Comments
Halon 1301 ... ... Total flooding agents.	HFC–32	Proposed unacceptable	Data indicate that HFC–32 is flammable and therefore is not suitable as a halon substitute.

[FR Doc 94–23678 Filed 9–23–94, 8:45 am]
BILLING CODE 6560–50–P

federal register

Monday
September 26, 1994

Part III

Department of Housing and Urban Development

Office of the Secretary

Office of the Assistant Secretary for Public and Indian Housing

Delegation and Redelegation of Authority for Issuing Loan Guarantees; Notices

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–94–1071; FR–3781–D–01]

Delegation of Authority for Issuing Loan Guarantees

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: Within this notice, the Secretary is delegating his authority under the Section 184 Loan Guarantees for Indian Housing program, 12 U.S.C. 1715z–13a, to the Assistant Secretary for Public and Indian Housing. In this program, the Department guarantees certain housing loans made to Indian families and Indian housing authorities.

EFFECTIVE DATE: September 19, 1994.

FOR FURTHER INFORMATION CONTACT: Dominic A. Nessi, Director, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, Room B–133, 451 7th Street, SW, Washington, DC 20410, telephone (202) 755–0032 or (202) 708–0850 (voice/TDD). (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Section 184 of the Housing and Community Development Act of 1992 (Public Law 102–550, approved October 28, 1992), codified at 12 U.S.C. 1715z–13a, authorizes the establishment of the Indian Housing Loan Guarantee Fund (the Fund) to provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land. In general, these lands, held in trust by the United States for the benefit of an Indian or Indian tribe, are inalienable. Trust lands under this program also include lands to which the title is held by an Indian tribe subject to a restriction against alienation imposed by the United States. Because the title to individual plots does not convey, and liens do not attach, conventional mortgage lending practices do not operate in this forum.

The Fund addresses these obstacles to mortgage financing by guaranteeing loans made to Indian families or Indian housing authorities to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area. The guarantee of the loan will cover 100 percent of the unpaid principal and interest. Borrowers will be required to pay a 1% guarantee fee at closing. A loan term of up to 30 years is permitted by statute, but is not required.

The statute authorizes the Secretary of the Department of Housing and Urban Development to approve loans for guarantee, issue certificates as evidence of the guarantees, and carry out other responsibilities associated with the program. To facilitate the administration of this program, the Secretary is delegating all of his power and authority under section 184 to the Assistant Secretary for Public and Indian Housing.

Therefore, the Secretary delegates as follows:

Section A. Authority Delegated

The Secretary of Housing and Urban Development delegates to the Assistant Secretary for Public and Indian Housing all power and authority of the Secretary with respect to the Loan Guarantees for Indian Housing program, 12 U.S.C. 1715z–13a (Section 184 of the Housing and Community Development Act of 1992).

Authority: Section 7(d) Department of Housing and Urban Development Act, 42 U.S.C. Section 3535(d).

Dated: September 19, 1994.

Henry G. Cisneros,

Secretary.

[FR Doc. 94–23710 Filed 9–23–94; 8:45 am]

BILLING CODE 4210–32–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. D–94–1072; FR–3781–D–02]

Redelegation of Authority for Issuing Loan Guarantees

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: Within this notice, the Assistant Secretary for Public and Indian Housing is redelegating authority under the Section 184 Loan Guarantees for Indian Housing program, 12 U.S.C. 1715z–13a, to the Director of the Office of Native American Programs, the Deputy Director for Headquarter Operations, the Deputy Director for Field Operations, and the Administrators of Field Offices of Native American Programs. In this program, the Department guarantees certain housing loans made to Indian families and Indian housing authorities.

EFFECTIVE DATE: September 19, 1994.

FOR FURTHER INFORMATION CONTACT: Dominic A. Nessi, Director, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, Room B–133, 451 7th Street SW., Washington, DC 20410, (202) 755–0032 or (202) 708–0850 (voice/TDD). (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Section 184 of the Housing and Community Development Act of 1992 (Public Law 102–550, approved October 28, 1992), codified at 12 U.S.C. 1715z–13a, authorizes the establishment of the Indian Housing Loan Guarantee Fund (the Fund) to provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land. In general, these lands, held in trust by the United States for the benefit of an Indian or Indian tribe, are inalienable. Trust lands under this program also include lands to which the title is held by an Indian tribe subject to a restriction against alienation imposed by the United States. Because title to individual plots does not convey, and liens do not attach, conventional mortgage lending practices do not operate in this forum.

The Fund addresses these obstacles to mortgage financing by guaranteeing loans made to Indian families or Indian housing authorities to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area. The guarantee of the loan will cover 100 percent of the unpaid principal and interest. Borrowers will be required to pay a 1% guarantee fee at closing. A loan term of up to 30 years is permitted by statute, but is not required.

In a delegation of authority appearing elsewhere in the **Federal Register** today, the Secretary of Housing and Urban Development has delegated all of his authority under the Section 184 Loan Guarantees for Indian Housing program, to the Assistant Secretary for Public and Indian Housing. Within this notice, the Assistant Secretary for Public and Indian Housing retains and redelegates this authority, except for certain power and authority specifically excepted from the redelegation, to the Director of the Office of Native American Programs, the Deputy Director for Headquarter Operations, the Deputy Director for Field Operations, which positions are at headquarters, and to the Administrators of Field Offices of Native American Programs, in the field.

Therefore, the Assistant Secretary for Public and Indian Housing redelegates as follows:

Section A. Authority Redelegated

1. The Assistant Secretary for Public and Indian Housing redelegates, to the Director of the Office of Native American Programs, the Deputy Director for Headquarters Operations, and the Deputy Director for Field Operations, all power and authority of the Assistant Secretary for Public and Indian Housing with respect to the Loan Guarantees for Indian Housing program, 12 U.S.C. 1715z–13a (section 184 of the Community and Development Act of 1992), except for the power and authority to issue waivers of regulations.

2. The Assistant Secretary for Public and Indian Housing redelegates, to the Administrators of Field Offices of Native American Programs, all power and authority of the Assistant Secretary for Public and Indian Housing with respect to the Loan Guarantees for Indian Housing program, 12 U.S.C. 1715z–13a (Section 184 of the Community and Development Act of 1992), except for the power and authority to issue rules, regulations, and waivers of regulations.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Section 3535(d).

Dated: September 19, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–23709 Filed 9–23–94; 8:45 am]

BILLING CODE 4210–33–P

federal register

Monday
September 26, 1994

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Part 106, et al.

Hazardous Materials Regulations; Editorial Corrections and Clarifications; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 106, 107, 110, 130, 171, 172, 173, 174, 175, 176, 177, 178, 179, and 180

[Docket No. HM–189K, Amdt. Nos. 106–10, 107–32, 110–3, 130–2, 171–2, 172–127, 173–138, 174–78, 175–51, 176–35, 177–83, 178–104, 179–49, and 180–6]

RIN 2137–AC44

Hazardous Materials Regulations; Editorial Corrections and Clarifications

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, RSPA is correcting editorial errors, making minor regulatory changes and, in response to requests for clarification, improving the clarity of certain provisions to the Hazardous Materials Regulations (HMR). In addition, RSPA is revising legal citations in the HMR based on the codification of the hazardous materials transportation laws. The intended effect of this rule is to enhance accuracy and reduce misunderstandings of the HMR. The amendments contained in this rule are minor editorial changes and do not impose new requirements.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Antonielli, Office of Hazardous Materials Standards, (202) 366–4488, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

RSPA annually reviews the Hazardous Materials Regulations (HMR) to detect errors which may be causing confusion to readers. Inaccuracies corrected in this final rule include typographical errors, incorrect references to other rules and regulations in the CFR, inconsistent use of terminology, and misstatements of certain regulatory requirements. In response to inquiries RSPA received concerning the clarity of particular requirements specified in the HMR, certain other changes are made to reduce uncertainties. In addition, RSPA is revising all legal citations contained in the HMR to reflect the codification of transportation laws relating to hazardous materials under 49 U.S.C. 5101–5127.

Since these amendments do not impose new requirements, notice and public procedure are unnecessary. For the same reason, there is good cause to make these amendments effective without the customary 30-day delay following publication. This will allow the changes to appear in the next revision of 49 CFR.

The following is a section-by-section summary of the amendments made under this final rule. It does not discuss editorial corrections (e.g., typographical, capitalization, and punctuation errors) or changes to the legal citations.

Part 106

Section 106.3. Paragraph (b) is revised to reflect the correct title of the Associate Administrator for Pipeline Safety, and a new paragraph (c) is added which delegates authority to the Associate Administrator for Research, Technology and Analysis.

Appendix A to Part 106. Appendix A to part 106 is removed because it duplicates the provisions in § 106.3.

Part 107

Section 107.329. In paragraphs (a) and (b), references to "subchapter B of this chapter" are revised to read "this subchapter".

Section 107.403. In paragraph (c), references to "Director" are revised to reflect the correct title of the Associate Administrator for Hazardous Materials Safety.

Section 107.503. Paragraph (c) is revised to reflect the correct reference to the ASME Certificate of Authorization.

Part 171

Section 171.2. The term "rail freight car" is replaced with "rail car".

Section 171.7. The entry for Compressed Gas Association is revised to reflect the correct address.

Section 171.8. In the definition of "NPT", the wording "in compliance with the" is revised to read "conforming to" for consistency.

Section 171.11. In paragraph (d)(6)(i), the wording "§ 171.203(d)(1)(iii)" is revised to reflect the correct section reference.

Section 171.12. In paragraph (d)(1), the wording "§ 171.203(d)(1)(iii)" is revised to reflect the correct section reference.

Part 172

Section 172.101. All references to "the appendix" in paragraph (c)(8) are revised to read "Appendix A". In paragraph (g), the reference to "subpart D" is revised to read "subpart E". In addition, paragraph (d)(4) is amended to refer to "§ 173.150 (e) or (f)" since both provisions set forth criteria for reclassing a material as a combustible liquid.

The Hazardous Materials Table (the Table). In the Table, the entry *"Ethylene oxide and carbon dioxide mixtures,* see Carbon dioxide and ethylene oxide mixtures, etc." is removed because "Carbon dioxide and ethylene oxide mixtures" is not listed as a proper shipping name.

Section 172.102. Special Provision 14 is amended to clarify the definition of motor fuel antiknock mixtures. Special Provision 42 is removed because the same provision appears in § 173.218. In Special Provision B33, the phrase "is subject to the following requirements." is revised to read "must conform to Table 1 as follows." In paragraph (c)(7)(ii), the statement "These provisions apply only to transportation in IM portable tanks:" is removed because it duplicates the introductory text of paragraph (c)(7). Special Provision T31 is amended by correcting the abbreviation "kpa" to "kPa". Additionally, in Special Provision T31, the temperature "65 °C" is revised to read "65.6 °C".

Section 172.203. Paragraph (h)(2)(i) is amended by replacing the word "to" with the word "of" preceding the words "this subchapter".

Section 172.505. In paragraph (a), immediately following the words "portable tank," the word "and" is removed and replaced with the word "or" for consistency.

Section 172.604. In paragraph (a)(3)(i), reference to "this part 172" is revised to read "this part".

Part 173

Section 173.12. Paragraph (d)(3) is removed because labpacks are only authorized for transportation by highway. Therefore, these requirements do not apply to marine pollutants because they are not regulated when packaged in non-bulk packagings and transported by highway.

Section 173.32. The wording in paragraph (g) "bad dents" is revised to read "significant dents" for consistency with paragraph (e)(2)(ii). An amendment is made in paragraph (q) to correct the wording "greater to or equal to" to read "greater than or equal to."

Section 173.33. In paragraph (c)(1)(iii), the word "shipped" is revised to read "loaded".

Section 173.34. Paragraph (e)(18)(i) is amended to correctly reference paragraph (e)(3) instead of (a)(3).

Section 173.116. In paragraph (a) table, "LC50" is corrected to read "LC_{50}" each place it appears.

Section 173.133 In paragraph (b)(1)(iv) table, references to "Hazard Zone C" and "Hazard Zone D" are removed because these zones only apply to gases (Division 2.3) and, in the entry "III (Hazard Zone D)" in column 2, the wording "Packing Groups I and II, Hazard Zones A, B and C" is revised to read "Packing Group I, Hazard Zones A and B, and Packing Group II".

Section 173.226. In paragraph (b)(4)(ii)(A), the word "and" is removed at the end of the sentence.

Section 173.230. In paragraph (d), the reference to Division "6.2" is revised to read Division "6.1".

Section 173.243. In paragraph (b)(2), the wording "cargo tanks" is added following "DOT 412".

Section 173.315. In Note 15, the section reference for "(QT) and (NQT)" marking requirements is corrected.

Section 173.318. The word "of" is revised to read "or" in paragraph (b)(1)(ii)(A). In paragraphs (b)(2)(i) (A) and (B), the words "his" and "this" are removed and replaced with the word "a". In paragraph (b)(6)(ii), the word "tanks" is revised to read "a tank". Parentheses are removed from "(MRHT)" in paragraph (g)(2)(i).

Appendix F to Part 173. A grammatical error is corrected in paragraph 2.(e).

Part 174

Section 174.63. In paragraph (b), the wording "Federal Railroad Administrator" is revised to reflect the "Associate Administrator for Safety, FRA".

Part 175

Section 175.320. In paragraph (a) table, for the entry "High explosives", in column 3, the wording "Blasting agent n.o.s." is revised to reflect the current shipping descriptions listed in the § 172.101 Table.

Section 175.700. The second sentence is removed because it is a duplicate of the first sentence.

Part 176

Section 176.415. In paragraph (b)(2), the wording "or unloading" is removed the second time it appears.

Section 176.600. In paragraph (d), the phrase "cool a reasonably" is corrected.

Part 177

Sections 177.839, 177.840 and 177.841. In paragraph (d) of these sections, the "s" is removed from the wording "cargo tanks".

Section 177.848. In paragraph (e)(6), the word "for" is added following the word "required" and preceding the word "any".

Section 177.860 In paragraph (a), the wording "materials which is" is corrected.

Part 178

Section 178.245–5. The wording "shall comply with" is revised to read "shall conform to".

Section 178.251–1. In paragraph (c), the wording "be in compliance with" is revised to read "conform".

Section 178.255–5. In paragraph (b), the wording "Every such valve" is revised to read "Each valve".

Section 178.255–12. In paragraph (a), the wording "pounds per square inch gauge" is abbreviated to "psig".

Section 178.270–11. In paragraph (b)(1), the word "transverse" is revised to read "transversal" to modify "center of the tank". In paragraph (d)(2), the phrase "or less than or" is revised to read "to less than or".

Sections 178.271–1 and 178.272–1. In paragraph (a), the wording "comply with" is revised to read "conform to".

Section 178.337–1. In paragraph (b), the word "chapter" is revised to read "subchapter". Also, in paragraph (d), the wording "unless it be" is corrected.

Section 178.337–2. In paragraph (a)(1), the wording "comply with" is revised to read "conform to". In paragraph (c), the wording "post weld" is revised to read "postweld".

Section 178.337–18. In paragraph (a)(3), the wording "comply with" is revised to read "conform to".

Section 178.348–10. In paragraph (d)(3), in the last sentence, all text after the word "acceptable" is removed.

Section 178.350–3. In paragraph (b), the section reference "§ 173.24" is revised to read "§ 172.310".

Part 180

Section 180.405. In paragraph (f)(6), the word "must" is removed and replaced with the word "shall".

Section 180.407. In paragraph (d)(4), the word "tank" is added following the word "cargo".

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). This final rule does not require a Regulatory Impact Analysis, or a regulatory evaluation, or an environmental assessment or impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism") and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

Paperwork Reduction Act

There are no new information collection requirements in this final rule.

List of Subjects

49 CFR Part 106

Administrative practice and procedure, Hazardous materials transportation, Oil, Pipeline safety.

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 110

Disaster assistance, Education, Emergency preparedness, Grant programs—Environmental protection, Grant programs—Indians, Hazardous materials transportation, Hazardous substances, Indians, Reporting and recordkeeping requirements.

49 CFR Part 130

Oil, Response plans, Reporting and recordkeeping requirements, Transportation.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 106—RULEMAKING PROCEDURES

1. The parenthetical authorities at the end of any sections in part 106 are removed and the authority citation is revised to read as follows:

Authority: 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 40113, 60101–60125; 49 CFR 1.53.

2. In § 106.3, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 106.3 Delegations.

* * * * *

(b) Associate Administrator for Pipeline Safety.

(c) Associate Administrator for Research, Technology and Analysis.

Appendix A [Removed]

3. Appendix A to part 106 is removed.

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

4. The parenthetical authorities at the end of any sections in part 107 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701, 49 CFR 1.45, 1.53.

§ 107.3 [Amended]

5. In § 107.3, the following changes are made:

a. In the first sentence of introductory text, the wording "Section 103 of the Act" is revised to read "49 U.S.C. 5102".

b. The term "Act" and its definition are removed.

c. For the definition "*Person*", in paragraph (2), the wording "sections 110 and 111 of the Act (49 App. U.S.C. 1809–1810)" is revised to read "49 U.S.C. 5123 and 5124".

d. For the definition "*State*", the wording "section 121 (49 App. U.S.C. 1819)" is revised to read "49 U.S.C. 5119".

6. In addition, in § 107.3, a new definition for "*Federal hazardous material transportation law*" is added in alphabetical order to read as follows:

§ 107.3 Definitions.

* * * * *

Federal hazardous material transportation law means 49 U.S.C. 5101 *et seq.*

* * * * *

§ 107.101 [Amended]

7. In § 107.101, the wording "Hazardous Materials Transportation Act" is removed and replaced with "Federal hazardous material transportation law".

§ 107.103 [Amended]

8. In 107.103, the following changes are made:

a. In paragraph (a), the wording "46 CR" is revised to read "46 CFR".

b. In paragraph (b)(10), a semicolon is added immediately following the word "reasons".

§ 107.111 [Amended]

9. In § 107.111, in paragraph (b)(3), a semicolon is added immediately following the word "applicant" and preceding the word "and".

§ 107.201 [Amended]

10. In § 107.201, the following changes are made:

a. In paragraph (a)(1), the wording "section 105(a)(4) or section 112(a)(1) or (a)(2) of the Act (49 App. U.S.C. 1804 and 1811)" is revised to read "49 U.S.C. 5125".

b. In paragraph (a)(2), the wording "section 105(a)(4) or section 112(a)(1) or (a)(2) of the Act" is revised to read "49 U.S.C. 5125".

c. In paragraph (c), the wording "the Act" is revised to read "Federal hazardous material transportation law"

11. In § 107.202, paragraphs (a), (b), and (c) are revised to read as follows:

§ 107.202 Standards for determining preemption.

(a) Except as provided in 49 U.S.C. 5125(c) and unless otherwise authorized by Federal law, any law, regulation, order, ruling, provision, or other requirement of a State, political subdivision, or Indian tribe, which concerns the following subjects and which is not substantively the same as any provision of the Federal hazardous materials transportation law or any regulation issued thereunder, is preempted:

(1) The designation, description, and classification of hazardous material.

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(3) The preparation, execution, and use of shipping documents pertaining to hazardous material and requirements related to the number, content, and placement of those documents.

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(5) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

(b) Except as provided in § 107.221 and unless otherwise authorized by Federal law, any requirement of a State or political subdivision or Indian tribe is preempted if—

(1) Complying with a requirement of the State, political subdivision, or Indian tribe and a requirement under the Federal hazardous material transportation law or regulations issued thereunder is not possible;

(2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to accomplishing and carrying out the Federal hazardous material transportation law or regulations issued thereunder; or

(3) It is preempted under 49 U.S.C. 5125 (b) or (c).

(c) A State, political subdivision, or Indian tribe may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose

related to transporting hazardous material, including enforcement and planning, developing and maintaining a capability for emergency response.

* * * * *

§ 107.203 [Amended]

12. In § 107.203, the following changes are made:

a. In paragraph (b)(3), the wording "Act or the regulations issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder".

b. In paragraph (c), the wording "Act or any regulation issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder".

13. In addition, in § 107.203, paragraph (a) is revised to read as follows:

§ 107.203 Application.

(a) With the exception of highway routing matters covered under 49 U.S.C. 5125(c), any person, including a State, political subdivision, or Indian tribe, directly affected by any requirement of a State, political subdivision, or Indian tribe, may apply to the Associate Administrator for Hazardous Materials Safety for a determination of whether that requirement is preempted by § 107.202 (a) or (b).

* * * * *

§ 107.209 [Amended]

14. In § 107.209, the following changes are made:

a. In paragraph (b), the wording "Act or the regulations issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder".

b. In paragraph (e), the wording "Act" is revised to read "Federal hazardous material transportation law" each place it appears.

§ 107.215 [Amended]

15. In § 107.215, the following changes are made:

a. In the first sentence of paragraph (a) introductory text, the wording "section 105(b) of the Act (49 App. U.S.C. 1804(b))" is revised to read "49 U.S.C. 5125(c)".

b. Also in paragraph (a) introductory text, the wording "Act or the regulations issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder".

c. In paragraph (a)(1), the wording "Act or regulations issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder"

d. In paragraphs (b)(4), (b)(5), and (b)(6), the wording "Act or the regulations issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder" each place it appears.

§ 107.219 [Amended]

16. In § 107.219, in paragraphs (c)(1) and (c)(2), the wording "Act or the regulations issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder" each place it appears.

§ 107.221 [Amended]

17. In § 107.221, the following changes are made:

a. In paragraph (b) introductory text, in the first sentence, the wording "Act and the regulations issued under the Act" is revised to read "Federal hazardous material transportation law or the regulations issued thereunder".

b. In paragraph (e), the wording "under the Act" is revised to read "under the Federal hazardous material transportation law".

18. In § 107.299, the definitions are placed in alphabetical order and the definition of "*Investigation*" is revised to read as follows:

§ 107.299 Definitions.

* * * * *

Investigation includes investigations authorized under 49 U.S.C. 5121 and inspections authorized under 49 U.S.C. 5118 and 5121.

§ 107.305 [Amended]

19. In § 107.305, the following changes are made:

a. In paragraphs (a) and (b), the wording "section 109(a) of the Act" is revised to read "49 U.S.C. 5121(a)" each place it appears.

b. In paragraph (b), in the second sentence, the wording "Section 109(b) of the Act" is revised to read "49 U.S.C. 5121(c)".

§ 107.311 [Amended]

20. In § 107.311, in paragraphs (a) and (b)(1), the wording "Act, an order issued under the Act" is revised to read "Federal hazardous material transportation law, an order issued thereunder" each place it appears.

§ 107.329 [Amended]

21. In § 107.329, the following changes are made:

a. In paragraphs (a) and (b), each reference to "subchapter B of this chapter" is revised to read "this subchapter".

b. Also, in paragraphs (a) and (b), the wording "Act, an order issued under the Act" is revised to read "Federal hazardous material transportation law, an order issued thereunder" each place it appears.

§ 107.333 [Amended]

22. In § 107.333, the wording "Act or an order or regulation issued under the Act" is revised to read "Federal hazardous material transportation law or an order or regulation issued thereunder".

§ 107.337 [Amended]

23. In § 107.337, the following changes are made:

a. The wording "provision of the Act" is revised to read "provision of the Federal hazardous material transportation law".

b. At the end of the section, the wording "section 111(a) of the Act" is revised to read "49 U.S.C. 5122(a)".

§ 107.339 [Amended]

24. In § 107.339, the wording "section 111(b) of the Act" is revised to read "49 U.S.C. 5122(b)".

Subparts C, D, and E of Part 107—[Amended]

25. The authority citations for subparts C, D, and E of part 107 are removed.

§ 107.403 [Amended]

26. In § 107.403, in paragraph (c), the word "Director" is removed and replaced with "Associate Administrator for Hazardous Materials Safety", each place it appears.

§ 107.503 [Amended]

27. In § 107.503, in paragraph (c), in the last sentence, the wording "ASME Certification of Authorization" is revised to read "ASME Certificate of Authorization".

§§ 107.301, 107.307, 107.309, 107.335 [Amended]

28. In addition to the amendments set forth above, §§ 107.301, 107.307(a), 107.309(a), and 107.335 are amended by removing the word "Act" and inserting in its place "Federal hazardous material transportation law" each place it appears.

PART 110—HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANTS

29. The authority citation for part 110 is revised to read as follows:

Authority: 49 U.S.C. 5101–5127, 49 CFR 1.53.

30. In § 110.20, the introductory paragraph and the definition of

"National curriculum" are revised to read as follows:

§ 110.20 Definitions.

Unless defined in this part, all terms defined in 49 U.S.C. 5102 are used in their statutory meaning and all terms defined in 49 CFR part 18 and OMB Circular A–102, with respect to administrative requirements for grants, are used as defined therein. Other terms used in this part are defined as follows:

* * * * *

National curriculum means the curriculum required to be developed under 49 U.S.C. 5115 and necessary to train public sector emergency response and preparedness teams, enabling them to comply with performance standards as stated in 49 U.S.C. 5115(c).

* * * * *

§ 110.30 [Amended]

31. In § 110.30, in paragraph (c) introductory text, the word "Tribe" is revised to read "tribe".

32. In addition, in § 110.30, paragraph (a) introductory text is revised to read as follows:

§ 110.30 Grant application.

(a) *General.* An applicant for a planning or training grant shall use only the standard application forms approved by the Office of Management and Budget (OMB) (SF–424 and SF–424A) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3502). Applicants are required to submit an original and two copies of the application package to: Grants Manager, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001. Applications received on or before January 1st and July 1st of each year will be considered in that cycle of the semi-annual review and award process. An initial round of the review and award process will consider applications received on or before November 15, 1992. Requests and continuation applications must include an original and two copies of the affected pages; previously submitted pages with information that is still current do not have to be resubmitted. The application must include the following:

* * * * *

§ 110.60 [Amended]

33. In § 110.60, in paragraph (a) introductory text, in the second sentence, the wording "hard match" is revised to read "hard-match"

§ 110.120 [Amended]

34. In § 110.120, in the last sentence, the wording "HMTUSA Grants Manager" is revised to read "Grants Manager".

PART 130—OIL SPILL PREVENTION AND RESPONSE PLANS

35. The authority citation for part 130 is revised to read as follows:

Authority: 33 U.S.C. 1321; 49 CFR 1.53.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

36. The parenthetical authorities at the end of any sections in part 171 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 171.1 [Amended]

37. In § 171.1, the following changes are made:

a. In paragraph (c), the wording "of the Act, all orders and regulations issued under the Act" is revised to read "of the Federal hazardous material transportation law, all orders and regulations issued thereunder".

b. In addition, in paragraph (c), the wording "by the Act" is revised to read "by the Federal hazardous material transportation law".

§ 171.2 [Amended]

38. In § 171.2, the following changes are made:

a. In paragraph (f)(1), the wording "under the Act" is revised to read "under the Federal hazardous material transportation law".

b. In paragraphs (f)(2) and (g)(2), the term "rail freight car" is revised to read "rail car", each place it appears.

c. In paragraph (g)(1), the wording "Any marking label" is revised to read "Any marking, label".

d. Also in paragraph (g)(1), the wording "Act, or a regulation issued under the Act" is revised to read "Federal hazardous material transportation law, or the regulations issued thereunder".

39. In § 171.3, the Note in paragraph (b)(3)(iii) is revised to read as follows:

§ 171.3 Hazardous waste.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

Note: Federal law specifies penalties up to $250,000 fine for an individual and $500,000 for a company and 5 years imprisonment for the willful discharge of hazardous waste at other than designated facilities. 49 U.S.C. 5124.

* * * * *

§ 171.7 [Amended]

40. In § 171.7, the paragraph (a)(3) table, in the entry for Compressed Gas Association, Inc., the address "1235 Jefferson Davis Highway" is revised to read "1725 Jefferson Davis Highway".

§ 171.8 [Amended]

41. In § 171.8, the following changes are made:

a. For the definition of *"NPT"*, the wording "in compliance with the" is revised to read "conforming to".

b. For the definition of *"Person"*, in paragraph (2), the wording "sections 110 and 111 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1809–1810)" is revised to read "49 U.S.C. 5123 and 5124".

42. In addition, in § 171.8, the definition of *"Federal hazardous materials transportation law"* is added in alphabetical order to read as follows:

§ 171.8 Definitions.

* * * * *

Federal hazardous material transportation law means 49 U.S.C. 5101 *et seq.*

* * * * *

§ 171.11 [Amended]

43. In § 171.11, in paragraph (d)(6)(i), the section reference "§ 172.203(d)(1)(iii)" is revised to read "§ 172.203(d)(4)".

§ 171.12 [Amended]

44. In § 171.12, in paragraph (d)(1), the section reference "§ 172.203(d)(1)(iii)" is revised to read "§ 172.203(d)(4)".

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

45. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 172.101 [Amended]

46. In § 172.101, the following changes are made:

a. In paragraph (c)(8) introductory text and paragraph (c)(8)(ii), the wording "the appendix" is revised to read "Appendix A" each place it appears.

b. In paragraph (d)(4), the reference "§ 173.150 (f)" is revised to read "§ 173.150(e) or (f)".

c. In paragraph (g), the reference "subpart D" is revised to read "subpart E"

d. In the Hazardous Materials Table, the following changes are made:

1. The entry "*Ethylene oxide and carbon dioxide mixtures*, see Carbon dioxide and ethylene oxide mixtures, etc." is removed.

2. For the entry "*Mobility aids*, see Wheel chair, electric.", in Column (2), the colon and period are removed at the end of the proper shipping name.

Appendix A to § 172.101 [Amended]

47. In appendix A to § 172.101, the following changes are made:

a. In the introductory text, in paragraph 1., in the second sentence, the wording "the Hazardous Materials Transportation Act" is revised to read "49 U.S.C. 5101–5127".

b. In the introductory text, in paragraph 1., in the last sentence, the wording "the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.)" is revised to read "49 U.S.C. 5101–5127".

c. In Table 1—Hazardous Substances Other Than Radionuclides, the following changes are made:

1. For the entry "Cresols", in column 2, the wording "Phenol, methyl-" is removed the second time it appears.

2. For the entry "DDT", in column 2, the word "Bezene" is revised to read "Benzene".

3. For the entry "Tetrachloroethane", in column 2, the wording "1,1,2,-Tetrachloroethane" is revised to read "1,1,2,2,-Tetrachloroethane".

§ 172.102 [Amended]

48. In § 172.102, the following changes are made:

a. In paragraph (c)(1), in Special Provision 14, a parenthetical mark is added following "dichloride" and the parenthetical mark following "stabilizers" is removed.

b. In paragraph (c)(1), Special Provision 42 is removed.

c. In paragraph (c)(3), in Special Provision B5, in the first sentence, the word "the" preceding the word "transport" is removed.

d. In paragraph (c)(3), in Special Provision B32, a comma is added to immediately follow "MC 331".

e. In paragraph (c)(3), in Special Provision B33, in the first sentence, the phrase "are subject to the following requirements." is revised to read "must conform to Table 1 of this Special Provision.".

f. In paragraph (c)(3), in Special Provision B90, in the first sentence, the wording "Steel tank" is revised to read "Steel tanks".

g. In paragraph (c)(7)(ii), the introductory text "These provisions apply only to transportation in IM portable tanks:" is removed.

h. In paragraph (c)(7)(ii), in Special Provision T31, the wording "65 kpa (9.4 psia) at 65 °C (150 °F)" is revised to read "65 kPa (9.4 psia) at 65.6 °C (150 °F)".

§ 172.203 [Amended]

49. In § 172.203, the following changes are made:

a. In paragraph (e)(2), the wording "171.8" is revised to read "§ 171.8".

b. In paragraph (h)(2)(i), the word "to" preceding the wording "this subchapter" is revised to read "of".

c. In paragraph (k) introductory text, in the second sentence, the wording "(contains caprylyl chloride)" is revised to read "(contains Caprylyl chloride)".

d. In paragraph (k)(3), in the list of proper shipping names, for the proper shipping name, "Corrosive solids, self heating, n.o.s.", a hyphen is added between the words "self" and "heating".

§ 172.334 [Amended]

50. In § 172.334, in paragraph (b)(3), a comma is added following "(c)(5)".

§ 172.505 [Amended]

51. In § 172.505, in paragraph (a), in the first sentence, immediately following the words "portable tank," the word "and" is removed and replaced with the word "or".

§ 172.600 [Amended]

52. In § 172.600, in paragraph (c)(2), the word "state" is revised to read "State".

§ 172.604 [Amended]

53. In § 172.604, in paragraph (a)(3)(i), the wording "this part 172" is revised to read "this part".

Appendix A to Part 172 [Amended]

54. In Appendix A to part 172, in the first sentence, the wording "L'Eclariage" is revised to read "L'Eclairage."

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

55. The parenthetical authorities at the end of any sections in part 173 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 173.11 [Amended]

56. In § 173.11, in paragraph (b)(4), the comma is removed after the wording "tank car".

§ 173.12 [Amended]

57. In § 173.12, the following changes are made:

a. In paragraph (d)(1), the word "and" is added immediately following the semicolon at the end of the paragraph.

b. In paragraph (d)(2), the wording "; and" is removed and replaced with a period.

c. Paragraph (d)(3) is removed.

§ 173.27 [Amended]

58. In § 173.27, the following changes are made:

a. In paragraph (f), Table 2., in the row entitled "Solids: greater than 15 kg, not greater than 50 kg", in column 3, the quantity limit of "5 g" is revised to read "5 kg".

b. In paragraph (g)(1), the word "headings" is revised to read "headrings".

§ 173.32 [Amended]

59. In § 173.32, the following changes are made:

a. In paragraph (g), the wording "bad dents" is revised to read "significant dents".

b. In paragraph (q) introductory text, the phrase "greater to or equal to" is amended to read "greater than or equal to".

§ 173.33 [Amended]

60. In § 173.33, the following changes are made:

a. In paragraph (c)(1)(iii), the word "shipped" is revised to read "loaded" each place it appears.

b. In paragraph (c)(1)(iv), the period following the reference "(c)(1)(i)" is removed and replaced with a comma.

§ 173.34 [Amended]

61. In § 173.34, in paragraph (e)(18)(i), in the first sentence, the reference "(a)(3)" is revised to read "(e)(3)".

Subpart D—[Amended]

62. In the subpart D title, the words "other than" are revised to read "Other Than".

§ 173.116 [Amended]

63. In § 173.116, in the paragraph (a) table, in column 2, the wording "LC50" is revised to read "LC_{50}" each place it appears.

§ 173.133 [Amended]

64. In § 173.133, in the paragraph (b)(1)(iv) table, in column 1, in the third and fourth entries, the wording "(Hazard Zone C)." and "(Hazard Zone D)" are removed and in column 2, in the last entry, the wording "Packing Groups I and II, Hazard Zones A, B and C" is revised to read "Packing Group I, Hazard Zones A and B, and Packing Group II".

§ 173.217 [Amended]

65. In § 173.217, in paragraph (a), in the last sentence, the wording "2–3 kg

(5 lbs)" is revised to read "2.3 kg (5 lbs)".

§ 173.226 [Amended]

66. In § 173.226, in paragraph (b)(4)(ii)(A), the word "and" is removed at the end of the paragraph.

§ 173.227 [Amended]

67. In § 173.227, in the section heading, the period following "Division 6.1" is removed and replaced with a comma.

§ 173.230 [Amended]

68. In § 173.230, in paragraph (d), the reference "6.2" is revised to read "6.1".

§ 173.243 [Amended]

69. In § 173.243, in paragraph (b)(2), the wording "cargo tanks" is added immediately following "DOT 412".

§ 173.301 [Amended]

70. In § 173.301, in paragraph (g) introductory text, the period following the word "methods" is removed and replaced with a colon.

§ 173.309 [Amended]

71. In § 173.309, the following changes are made:

a. In paragraph (a)(1), the word "non-corrosive" is revised to read "noncorrosive".

b. In paragraphs (a)(3)(iii), (a)(4)(ii), and (b)(2), the wording "kpa" is revised to read "kPa" each place it appears.

c. In paragraph (a)(4)(ii), the reference "55 °C— (130 °F)" is revised to read "55 °C (130 °F)" each place it appears.

§ 173.315 [Amended]

72. In § 173.315, in the paragraph (a) table, in Note 15, in the next to last sentence, the section reference "§ 172.328(d)" is revised to read "§ 172.328(c)".

§ 173.318 [Amended]

73. In § 173.318, the following changes are made:

a. In paragraph (b)(1)(ii)(A), the wording "One of more" is revised to read "One or more".

b. In paragraphs (b)(2)(i) (A) and (B), the words "his" and "this", respectively, are removed and replaced with the word "a".

c. In paragraph (b)(6)(ii), the wording "On tanks" is revised to read "On a tank".

d. In paragraph (g)(2)(i), the wording "an (MRHT)" is revised to read "an MRHT".

Subpart I—[Amended]

74. The authority citation for subpart I to part 173 is removed.

Appendix A to Part 173—[Amended]

75. In Appendix A to part 173, in paragraph 2., a comma is added immediately after the wording "surgical gauze".

Appendix F to Part 173—[Amended]

76. In Appendix F to part 173, in paragraph 2.(e), in the third sentence, the phrase "combustion are observed" is revised to read "combustion is observed".

PART 174—CARRIAGE BY RAIL

77. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 174.63 [Amended]

78. In § 174.63, in paragraph (b), the wording "Federal Railroad Administrator" is revised to read "Associate Administrator for Safety, FRA".

§ 174.100 [Amended]

79. In § 174.100, in the section heading and in the first sentence of paragraph (b), the "I" is revised to read "1".

PART 175—CARRIAGE BY AIRCRAFT

80. The parenthetical authorities at the end of any sections in part 175 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 175.320 [Amended]

81. In § 175.320, in the table in paragraph (a), in the entry "High explosives", in column 2, the wording "Division 1.1 or 1.2 (Class A) explosives" is revised to read "Class 1 (explosive) materials" and, in column 3, the wording "Blasting agent n.o.s." is revised to read "Blasting explosives (Division 1.1D or 1.5D), or Blasting agent (Division 1.5D), Very insensitive explosive substances, n.o.s., or Substances, EVI, n.o.s. (Division 1.5D), Extremely insensitive explosive articles or Articles, EEI (Division 1.6N)".

§ 175.700 [Amended]

82. In § 175.700, in paragraph (b), the second sentence is removed.

PART 176—CARRIAGE BY VESSEL

83. The parenthetical authorities at the end of any sections in part 176 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 176.13 [Amended]

84. In § 176.13, in paragraph (c), the reference "§ 172.704(c)" is revised to read "§ 172.704(d)".

Subpart F of Part 176—[Amended]

85. The authority citation in subpart F of part 176 is removed.

§ 176.415 [Amended]

86. In § 176.415, in paragraph (b)(2), the wording "or unloading" is removed, the second time it appears.

§ 176.600 [Amended]

87. In § 176.600, in paragraph (d), the wording "cool a reasonably" is revised to read "cool as reasonably".

PART 177—CARRIAGE BY PUBLIC HIGHWAY

88. The parenthetical authorities at the end of any sections in part 177 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 177.838 [Amended]

89. In § 177.838, the following changes are made:

a. In paragraph (g), the wording "3.6 kg (7.9 pounds)" is revised to read "3.6 kg (8 pounds)".

b. In paragraph (h), the word "pyroforic" is revised to read "pyrophoric" each place it appears.

§ 177.839 [Amended]

90. In § 177.839, in paragraph (d) introductory text, in the first sentence, the wording "cargo tanks" is revised to read "cargo tank", each place it appears.

§ 177.840 [Amended]

91. In § 177.840, in paragraph (d), in the first sentence, the wording "cargo tanks" is revised to read "cargo tank".

§ 177.841 [Amended]

92. In § 177.841, in paragraph (d) introductory text, in the first sentence, the wording "cargo tanks" is revised to read "cargo tank", each place it appears.

§ 177.848 [Amended]

93. In § 177.848, in paragraph (e)(6), in the second sentence, the word "for" is added following the word "required" and preceding the word "any".

§ 177.860 [Amended]

94. In § 177.860, the following changes are made:

a. In paragraph (a) introductory text, in the first sentence, the wording "materials which is" is revised to read "material which is".

b. In paragraph (b), the wording "Division 6 1" is revised to read "Division 6.1".

PART 178—SPECIFICATIONS FOR PACKAGINGS

95. The parenthetical authorities at the end of any sections in part 178 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 178.245–5 [Amended]

96. In § 178.245–5, in paragraph (b), the wording "shall comply with" is revised to read "shall conform to".

§ 178.255–5 [Amended]

97. In § 178.255–5, in paragraph (b), in the second sentence, the wording "Every such valve" is revised to read "Each valve".

§ 178.255–12 [Amended]

98. In § 178.255–12, in the first sentence of paragraph (a), "pounds per square inch gauge" is revised to read "psig".

§ 178.270–9 [Amended]

99. In § 178.270–9, in the second sentence, the word "obround" is revised to read "round".

§ 178.270–11 [Amended]

100. In § 178.270–11, the following changes are made:

a. In paragraph (b)(1) introductory text, in the last sentence, the word "transverse" is revised to read "transversal".

b. In paragraph (d)(2), in the first sentence, the phrase "or less than or" is revised to read "to less than or".

§ 178.271–1 [Amended]

101. In § 178.271–1, in paragraph (a), the wording "comply with" is revised to read "conform to".

§ 178.272–1 [Amended]

102. In § 178.272–1, in paragraph (a), the wording "comply with" is revised to read "conform to".

§ 178.337–1 [Amended]

103. In § 178.337–1, the following changes are made:

a. In paragraph (b), the word "chapter" is revised to read "subchapter".

b. In paragraph (d), the wording "unless it be" is revised to read "unless".

§ 178.337–2 [Amended]

104. In § 178.337–2, the following changes are made:

a. In paragraph (a)(1), the wording "comply with" is revised to read "conform to".

b. In paragraph (c), in the last sentence, the wording "post weld" is revised to read "postweld".

§ 178.337–3 [Amended]

105. In § 178.337–3, in paragraph (c)(3)(i), the colon following the word "pressure" is removed and replaced with a semicolon.

§ 178.337–11 [Amended]

106. In § 178.337–11, in paragraph (a)(2)(i), in the third sentence, the wording "loading unloading" is revised to read "loading/unloading".

§ 178.337–18 [Amended]

107. In § 178.337–18, in paragraph (a)(3), in the first sentence, the wording "comply with" is revised to read "conform to".

§ 178.338–1 [Amended]

108. In § 178.338–1, in paragraph (c)(1), in the third sentence, the quotation marks before and after the wording "design pressure" are removed.

§ 178.345–3 [Amended]

109. In § 178.345–3, the following changes are made:

a. In paragraph (e), the reference "178.347–2" is revised to read "§ 178.347–2".

b. In paragraph (g) introductory text, the period is removed following the word "requirements" and replaced with a colon.

§ 178.345–7 [Amended]

110. In § 178.345–7, in paragraph (a)(2), in the last sentence, the words "conical shall" is revised to read "conical shell".

§ 178.345–14 [Amended]

111. In § 178.345–14, the following changes are made:

a. In paragraph (b)(6), the period after the parenthetical wording "(Water cap.)" is removed and replaced with a comma.

b. In paragraph (b)(15), a period is added following the word "feet".

c. In paragraph (c)(3), the semicolon following the parenthetical wording"(CT mfr.)" is removed and replaced with a period.

d. In paragraph (c)(6), the parenthetical wording "(Max load. rate, GPM)" is revised to read "(Max. load rate, GPM)".

e. In paragraph (c)(7), the parenthetical wording "(Max. unload. rate, GPM)" is revised to read "(Max. unload rate, GPM)".

§ 178.347–2 [Amended]

112. In § 178.347–2, the following changes are made:

a. In paragraph (a), in the titles of Tables I and II, a period between the words "(MS)" and "HIGH" is removed and replaced with a comma, each place it appears.

b. In Table I, in the column "Over 18 to 22", for the entry "Thickness (AL)", "0 187" is revised to read "0.187".

§ 178.348–10 [Amended]

113. In § 178.348–10, in paragraph (d)(3), in the last sentence, the phrase "as this will provide a great vent capacity requirement" is removed.

§ 178.350–3 [Amended]

114. In § 178.350–3, in paragraph (b), the reference "§ 173.24" is revised to read "§ 172.310".

PART 179—SPECIFICATIONS FOR TANK CARS

115. The parenthetical authorities at the end of any sections in part 179 are removed and the authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

Subpart F—[Amended]

116. The authority citation for subpart F to part 179 is removed.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

117. The authority citation is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 180.405 [Amended]

118. In § 180.405, in paragraph (f)(6), the word "must" is revised to read "shall".

§ 180.407 [Amended]

119. In § 180.407, in paragraph (d)(4), the word "tank" is added following the word "cargo".

§ 180.415 [Amended]

120. In § 180.415, in paragraph (b), in the last sentence, the colons preceding the wordings "P for pressure" and "L for lining" are removed and replaced with semicolons.

Issued in Washington, DC on September 14, 1994, under authority delegated in 49 CFR part 1.

D.K. Sharma,

Administrator.

[FR Doc. 94–23301 Filed 9–23–94; 8:45 am]

BILLING CODE 4910–60–P

Federal Register

Monday
September 26, 1994

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135
Air Tour Operators in the State of Hawaii; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 27919; Special Federal Aviation Regulation (SFAR) No. 71]

RIN 2120–AF53

Air Tour Operators in the State of Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action establishes certain procedural, operational and equipment requirements for air tour operators in the State of Hawaii. This emergency rule is necessary because of an escalation of air tour accidents. The regulation is intended to enhance the safety of air tour operations within the State.

DATES: This final rule is effective October 26, 1994. Comments must be received on or before December 27, 1994.

ADDRESSES: Send comments on this final rule in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 27919, 800 Independence Ave., SW., Washington, DC 20591. Comments delivered must be marked Docket No. 27919. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

Commenters who wish the FAA to acknowledge the receipt of their comments must submit with their comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27919." The postcard will be date stamped by the FAA and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Brian Calendine, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Requests should be identified by the docket number of this rule.

Persons interested in being placed on a mailing list for notices of proposed rulemaking should request a copy of Advisory Circular No. 11–2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedure.

Background

The Air Tour Industry

Since 1980, the air tour industry in the State of Hawaii has grown rapidly, particularly on the islands of Oahu, Kauai, Maui, and Hawaii. The growth of the tourist industry, the beauty of the islands, and the inaccessibility of some areas on the islands has generated tremendous growth in the number of air tour flights. In 1982, there were approximately 63,000 helicopter and 11,000 airplane air tour flights. By 1991, these numbers had increased to approximately 101,000 for helicopters and 18,000 for airplanes. After a slight decline due to Hurricane Iniki in 1992, air tour flights in 1994 are projected to reach the 1991 levels. In Hawaii, the air tour industry carries about 400,000 passengers annually. Thirty-eight operators are conducting air tours within the State of Hawaii, using approximately 97 helicopters and 16 fixed-wing aircraft. During the 9-year period between 1982 and 1991, there were eight fatal accidents with 24 fatalities. The accident data shows an escalation of fatal accidents during the 3-year period between 1991 and 1994. During this time, there were five fatal accidents with 24 fatalities. (See table and figure)

Use of Helicopters in Air Tours

Helicopters are uniquely suited for air tours in Hawaii because they can operate at slow speeds and hover over scenic areas. Helicopter air tours are often conducted close to the ground, near scenic attractions so passengers can see and experience the thrill of being close to geological and terrain features, such as lava flows and waterfalls.

Some air tour operators advertise dramatic overwater flights to view whales, shorelines, cliffs, and waterfalls; entry into one-way canyons; flying close to hot molten lava; and hovering over the shoreline where molten lava flows into the ocean. Some advertising brochures, for example, describe air tours as "excitement to the boiling point," and invite tourists to "fly into the heart and heat of an active volcano" and "close enough to waterfalls to feel the cooling mist." One fixed-wing air tour operator formerly advertised that "[w]e fly you lower and slower than anv twin engine plane can . . . lower and slower than many helicopters do . . ."

While passengers are often attracted to the thrill associated with low-flying air tours, they are generally not aware of the risks involved. Risks associated with low flying air tour operations include: unpredictable winds that create less stable flying conditions; fewer options to escape unforeseen weather; unmarked or unknown obstructions; less time to select suitable emergency landing areas; increases in pilot workload because of quick stops, rapid turns, and watching for obstructions; inability to be detected by air traffic control radar; inability to conduct two-way radio communication; increased likelihood of ingesting foreign debris, including salt water spray, into the engine; less overall reaction time; and congestion of low flying traffic at scenic locations. Further, many air tours are conducted over scenic areas along rugged coasts, where, in the event of an engine failure, the pilot must ditch in the ocean. A helicopter without flotation devices, unlike most light airplanes, may sink within moments.

History and Escalation of Accidents

The growth of the air tour sightseeing industry in Hawaii has been associated with an escalation of accidents. The proximate causes of the accidents range from engine power loss to encounters with adverse weather. Contributing factors to the causes and seriousness of accidents are: operation beyond the demonstrated performance envelope of the aircraft, inadequate preflight planning for weather and routes, lack of survival equipment, and flying at low altitudes (which does not allow time for recovery or forced landing preparation in the event of a power failure).

The following table is a synopsis of selected air tour accidents involving aircraft damage, minor or serious injuries, or fatalities that occurred between September 1982 and September 1994.

SELECTED AIR TOUR ACCIDENTS IN HAWAII, SEPTEMBER 1982–SEPTEMBER 1994

Date	Type	Part	Location	Injuries	Fatalities
9/2/82	Bell 206–L	135	Lihue	2 serious 3 minor	
4/8/84	Grumman AA–5A	91	Kamuela		4
9/26/85	Aerospatiale	135	Kula	5 minor	1
1/1/86	Cessna R172K	135	Kamuela	4 serious	1
5/18/86	Bell 206B	91	Maui	1 serious 1 minor	2
3/29/87	Bell 206B	135	Kona	3 serious 1 minor	1
4/24/87	Cessna 172N	91	Lihue		4
5/29/88	Bell 206B	135	Honolulu	2 minor	
5/20/89	Aerospatiale AS350D	135	Waialae Falls	7 minor	
6/11/89	Beech H18	135	Waipio Valley		
8/19/89	Aerospatiale AS350D	135	Volcano	1 serious 5 minor	11
5/5/91	Hughes 369HS	135	Keanae	3 minor	
6/6/91	Bell 206B	91	Lihue	3 serious 1 minor	
11/9/91	Bell 206B	135	Hilo	1 serious 2 minor	
4/22/92	Beech E18S	135	Mount Haleakala		9
9/16/92	Aerospatiale AS350B	135	Hana		7
9/21/92	Bell 47	91	Volcano National Park	3 minor	
1/25/93	Fairchild Hiller FH–1100	91	Volcano National Park	1 minor	4
2/23/94	Aerospatiale AS350B	135	Volcano National Park	1 serious 1 minor	
3/25/94	Hughes 369D	135	Hawaii National Park		
4/18/94	Hughes 369D	135	Waimea	4 serious	1
7/14/94	Aerospatiale AS350D	135	Hanalei		3
7/14/94	Aerospatiale AS350D	135	Molokai		
8/11/94	Aerospatiale AS350D	135	Waipio Valley		
9/3/94	Hughes 369D	135	Hilo		

The table shows a total of 24 air tour fatalities between 1982 and 1991 (9 years). Even though there was a decline in the number of air tour flights in 1992, the accident data show an escalation of fatal accidents between 1991 and 1994. From July 1991 through July 1994 (3 years), there were 20 air tour accidents involving 24 fatalities. (See figure.) Since January 1993, three helicopter accidents have involved landings in the ocean with two of those accidents resulting in seven fatalities. The most recent fatal accident occurred on July 14, 1994. The most recent non-fatal accident occurred on September 3, 1994. (See table.)

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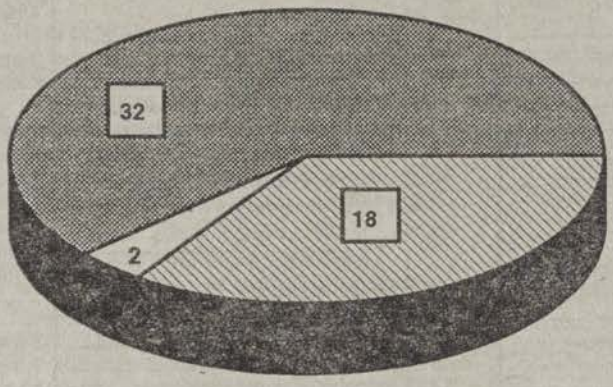
HAWAIIAN AIRCRAFT ACCIDENT ANALYSIS
JULY 1991 THROUGH JULY 1994

Total Aircraft Accidents 52

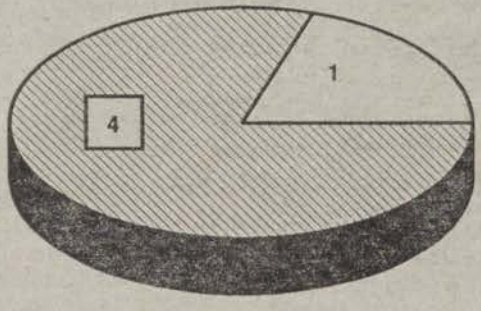


Helicopter Air Tour

Airplane Air Tour

Other than Air Tour (all categories)

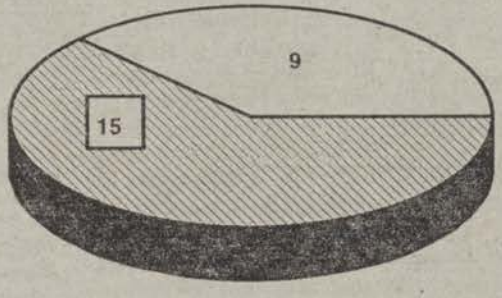
Fatal Air Tour Accidents 5



Helicopter

Airplane

Air Tour Fatalities 24



Helicopter

Airplane

SOURCE: NTSB

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National Transportation Safety Board Recommendations

Based on its investigation of the April 22, 1992, accident in Haleakala National Park, the National Transportation Safety Board (NTSB) recommended that the FAA "[c]reate a specific classification for, and operating rules governing, commercial air tour operators based on the complexity of flight operations, aircraft flown, flight frequency, number of passengers carried, air traffic densities in the area of operation, and other relevant factors" (A–93–8). In addition, the NTSB recommended that the FAA "[i]dentify airspace which warrants special protection due to air tour operations," and "[c]reate special operating rules for such airspace to reduce the potential for midair collisions and other accidents commensurate with meteorological and terrain considerations." (A–93–10) In response to the NTSB's recommendations, the FAA has informed the NTSB that it is considering a special rule for air tour operators in Hawaii.

Based on the NTSB recommendations, accident investigations, and discussions with the NTSB, the FAA has identified the following as needing to be addressed:

(1) Air tour operators fly too close and too low to various attractions and land features.

(2) There is no clear definition of "suitable landing site" for helicopters.

(3) Sightseeing helicopters are operating in the avoid area of the height-speed envelope (deadman's curve) where successful autorotations are not possible.

(4) Helicopters operating along the shorelines of the Hawaiian Islands should be equipped with appropriate flotation equipment.

(5) Passengers should be briefed before flights on the use of flotation gear.

Actions Other Than Rulemaking to Address the Problems

The FAA, the State of Hawaii, and the air tour industry have been attempting to correct safety problems that affect air tour operations.

In 1986, the FAA conducted a study of helicopter sightseeing operations in Hawaii. The study team was composed of representatives from the FAA, the State of Hawaii, and industry Based on the study, recommendations were made to the State and to operators in Hawaii to improve safety and community relations. Recommendations included the following:

(1) The FAA should study the possibility of imposing limitations, through operations specifications, that would require the helicopter to be operated at a combination of height and forward speed (including hover) that would permit a safe landing in event of engine power loss, in accordance with the height-speed envelope for that helicopter under current weight and aircraft altitude. These limitations would also prevent the helicopter from being flown over areas in which a safe forced landing could not be made.

(2) The FAA should advise helicopter operators who conduct passenger-carrying operations under part 91 or part 135 that a flight (1) over an area in which a successful forced landing could not be made, or (2) at an airspeed and altitude combination that places the aircraft beyond its performance capability to successfully autorotate, would be considered a reckless operation under § 91.13 (formerly § 91.9).

The study team was also concerned about the lack of helicopter flotation equipment on some aircraft, particularly for operations along the coastlines of the islands, where cliffs and rocks make a successful autorotation to shore virtually impossible. The team believes that the shoreline must offer a reasonable chance to land safely in the event of engine failure, and that, if no such area exists, appropriate helicopter flotation equipment should be required.

Also, in 1986, the FAA conducted a joint study with the State of Hawaii on helicopter heliport and airport access. A result of that study was the Helicopter Operating Plan for Hawaii. Based on portions of that plan, the Hawaiian Helicopters Operators Association (HHOA) developed its "Fly Neighborly" program. The HHOA plan calls for voluntary compliance with a standoff distance of 1,500 feet and a minimum altitude of 1,500 feet over communities. In addition, the plan calls for a 3,000-foot standoff distance in areas of Volcanoes National Park. The HHOA program includes part 91 operators as well as part 135 certificated operators. This is a voluntary program without FAA oversight.

On January 17, 1992, the FAA issued Handbook Bulletin No. 92–01, Air Tour/Sightseeing Operations. The bulletin advises principal operations inspectors to recommend to operators that they include procedures in their operations manuals for conducting air tour/sightseeing operations. The bulletin also advises the inclusion of charts of air tour areas, procedures for obtaining current weather, provisions for pilot training, and other information specific to air tour operations.

In January 1994, the FAA held four public meetings in Hawaii to investigate complaints regarding flight safety, aircraft noise, and possible intrusive flights of helicopters. While the vast majority of the commenters addressed the noise issue, some commenters did raise safety issues. Some of the public meeting comments and subsequent comments submitted to the FAA highlight a number of personal experiences of individuals who witnessed helicopters flying dangerously low over scenic areas and above people and property on the ground. In some instances, witnesses claimed that the aircraft flew lower than the people who were walking on high elevation trails.

The Honolulu Flight Standards District Office, during the past 3 years, has conducted an extensive inspection and surveillance program of the air tour industry. On July 15, 1994, in response to a number of recent accidents, the FAA initiated a comprehensive review of operations and maintenance practices of the Hawaiian air tour operators. In addition, the FAA requested that all air tour operators in the State of Hawaii immediately conduct a "stand down" safety review of their operational and maintenance practices.

Need for Emergency Rulemaking

Despite the voluntary measures, the cooperation of the Hawaii air tour operators, and the FAA's inspections, the accident data show that additional measures are necessary to ensure safe air tour operations in Hawaii. The current regulatory scheme is not comprehensive enough to ensure the safety of all air tour operations in Hawaii.

Section 91.119 prescribes minimum altitudes for airplanes and helicopters that provide for the protection of persons and property on the surface. Generally, a pilot may not operate below an altitude allowing, if power failure occurs, an emergency landing without undue hazard to persons or property on the surface. Helicopters may be operated at lower altitudes than airplanes if the operation is conducted without hazard to persons or property on the surface and the pilot can conduct a safe emergency landing in the event of power failure.

Under ideal conditions, a helicopter, unlike an airplane, can land at or near zero forward speed, provided the landing area is relatively level and free of obstructions. Factors that make an emergency landing site unsuitable include obstacles, rugged terrain, congested areas and water Obstacles range from natural terrain features and

trees to buildings and utility towers with wires strung between them.

A major factor affecting safety of flight in any single engine aircraft at low altitude is the limited choice of suitable emergency landing areas. Hawaii's unique topography—active volcanoes spewing hot molten lava, sharp cliffs, cascading waterfalls, rugged coastlines, mist-shrouded mountains, dense tropical rainforests and deep, closed canyons—often complicates access to suitable emergency landing areas. The air tour accidents in Hawaii indicate that helicopter pilots have had insufficient time to locate suitable landing areas after engine power loss or other problems leading to accidents.

Based on the recent escalation of accidents caused by unsafe operating practices, and the fact that voluntary measures are insufficient, the FAA is implementing this emergency final rule as Special Federal Regulation (SFAR) No. 71.

The Special Federal Aviation Regulation

The FAA is promulgating these requirements in an SFAR, rather than a general rule, to address the unique problems associated with the Hawaiian air tour operating environment.

This emergency regulatory action establishes additional operating procedures, including minimum safe altitudes (and associated increases in visual flight rules (VFR) weather minimums), minimum equipment requirements, and operational limitations for air tour aircraft in the State of Hawaii.

Applicability and Definitions

This SFAR applies to parts 91 and 135 air tour operators in the State of Hawaii (section 1). In section 2, "air tour" is defined as any VFR sightseeing flight conducted in an airplane or helicopter for compensation or hire. "Air tour operator" is defined as any person who conducts an air tour.

Flotation Devices

The SFAR requires that any single-engine air tour helicopter flown beyond the shore of any island must be amphibious or equipped with emergency floats and approved flotation gear easily accessible for each occupant, or that each person on board the helicopter wear approved flotation gear. An amphibious helicopter or one equipped with floats will allow a safe emergency ditching. This requirement is specific to helicopters because helicopters, unlike airplanes, may sink rapidly after forced landings on water.

These requirements should reduce the risk of drowning, such as the deaths that occurred on January 25, 1993, when a helicopter, operating under part 91, crashed in deep water while on a sightseeing flight to view molten lava flowing into the ocean off the coast of Volcanoes National Park. Before the accident, the pilot had been hovering near the shoreline between 100 and 150 feet above sea level. When the pilot attempted to resume forward flight, he experienced a total left pedal failure. The pilot lost control and the helicopter landed in the ocean and sank. The helicopter was not equipped with flotation devices, and the pilot and four passengers were not wearing lifevests. Only the pilot survived. The NTSB found that a factor which contributed to the passengers' fatal injuries was the operator's failure to provide lifevests to the passengers.

In a July 14, 1994, accident, an air tour helicopter with seven people on board made a forced landing in the Pacific Ocean after losing power off Kauai's Na Pali Coast. Three passengers swam to shore and another was rescued from the water. The pilot and two other passengers drowned. The helicopter was not equipped with flotation devices, and the passengers did not have sufficient time to don the lifevests on board the helicopter.

Later, on the same day, a different air tour helicopter made a forced landing after losing power off the north coast of Molokai. All persons aboard the helicopter swam to shore and were rescued the next day. The helicopter was equipped with flotation devices, and the pilot and passengers had sufficient time to don the lifevests.

Flotation equipment on a helicopter should allow the helicopter to remain afloat long enough for the persons to egress safely; the individual flotation gear should allow the survivors an opportunity to swim to shore or to be picked up by rescue personnel. Flotation equipment/lifevests helped to ensure the survival of the passengers in the second accident on July 14.

The FAA is considering changing the rule to require that all single-engine helicopters conducting air tour operations beyond the shore of any island be amphibious or fitted with flotation devices. Therefore, the FAA is requesting comments on this possibility. At the close of the comment period, the FAA will analyze the comments received and, based on its analysis, determine if further rulemaking is necessary.

Helicopter Performance Plan

Section 4 requires that, before departure, the air tour operator must complete a performance plan for the helicopter flight. The pilot in command (PIC) is required to comply with the performance plan. The plan must be based on information in the rotorcraft flight manual (RFM), considering the maximum density altitude to which the operation is planned and must address such elements as maximum gross weight and center of gravity, maximum gross weight for hovering in or out of ground effect, and maximum combination of weight, altitude, and temperature for which height-velocity information in the RFM is valid. This requirement is necessary in light of accidents attributable to the failure of the pilot to stay outside the avoid area of the helicopter height-velocity envelope. The flight is not limited to the out-of-ground effect (OGE) ceiling, and the helicopter may be operated at a higher altitude provided no hovering is planned.

This requirement should enhance flight safety in light of certain accidents, including that which took place on May 20, 1989. On that date, an Aerospatiale AS350D was on a local sightseeing flight to view Waialae Falls with six passengers on board. After hovering at a low altitude near the falls, the pilot began a pedal turn and forward movement for the initial climb away from the falls. The main rotor revolutions per minute (rpm) decayed, and the pilot turned back toward the upper falls, where he thought he could land. However, the helicopter settled into a ravine, damaging the helicopter and injuring the pilot and passengers. The NTSB determined that the probable cause of the accident was the pilot's failure to maintain rotor rpm, while turning and taking off from a hover with a relatively heavy gross weight. Additional factors related to the accident were the high density altitude and rough/uneven (rocky) terrain in the emergency landing area.

Helicopter Operating Limitations

Section 5 requires that the PIC shall operate the helicopter at a combination of height and forward speed (including hover) that would permit a safe landing in the event of engine power loss, in accordance with the height-velocity envelope for that helicopter under current weight and aircraft altitude. This requirement is necessary to prevent pilots from hovering for periods of time beyond the performance capability of the helicopter and outside what the height-velocity diagram permits for safe operation.

This requirement prohibits aircraft from being operated in dangerous flight regimes, such as the January 25, 1993, accident discussed previously (when

the pilot was hovering at a low altitude over a lava flow). It also is intended to prevent the type of accidents that occurred on March 25, 1994, and April 18, 1994. On March 25, 1994, the pilot of a Hughes 369D helicopter operated under part 135 lost control and collided with mountainous terrain by the Puu'oo Vent in Hawaii National Park. The helicopter had become enveloped in a steam cloud at a 40-foot hover just before the pilot lost control. The helicopter was destroyed; the pilot and passengers sustained minor injuries. On April 18, 1994, a Hughes 369D helicopter lost power during an OGE hover and collided with rocky terrain below Waimea Falls, Waimea, Kauai. The helicopter was on a sightseeing flight operated under part 135. The pilot and three passengers were seriously injured. One passenger was fatally injured.

The requirement increases the possibility of safe landing in the event of engine failure. A safe landing may not be possible if the helicopter is within the avoid area of the height-velocity envelope when the engine failure occurs.

Minimum Flight Altitudes

Section 6 requires that, unless operating in compliance with an air traffic control clearance, or as otherwise authorized by the Administrator, air tour operations may not be conducted below an altitude of 1,500 feet above the surface; and closer than 1,500 feet from any person or property; or below any altitude provided by Federal statute or regulation. As noted earlier, Hawaii's unique topography often complicates access to suitable emergency landing areas. The air tour accidents in Hawaii have been characterized by insufficient time for pilots to locate suitable landing areas after engine power loss or other problems leading to accidents. The requirement to maintain an altitude of 1,500 feet above the surface is necessary for safety because it allows the pilot sufficient time to react in an emergency, to notify and instruct passengers, and to prepare for a forced landing. An aircraft operating at least 1,500 feet above the surface allows the pilot a greater opportunity to select a suitable landing site than would be the case at lower altitudes. The FAA notes that these minimum distances are consistent with HHOA's Fly Neighborly program.

The accident data also show low-flying aircraft flying VFR into instrument meteorological conditions (IMC). An additional benefit from the 1,500-foot minimum altitude will be the increased basic VFR weather minimums for these air tour operations. This provision is necessary in light of the numerous accidents that have occurred when the aircraft flew into terrain because of low visibility or because the pilot was flying too low The accident data show that this is a problem for both airplanes and helicopters. For instance, on April 24, 1987, an air tour flight operated under part 91 collided with terrain in the Waimae Canyon. Marginal visual meteorological conditions were reported in the vicinity of the accident site. The pilot and three passengers were fatally injured. In the January 25, 1993, accident, in which the helicopter crashed in deep water after hovering between 100 and 150 feet above sea level, the NTSB noted that a contributing factor to the accident was the pilot's choice of a hover altitude/position inadequate to reach a shoreline in the event of an emergency.

On June 11, 1989, a Beechcraft BE–H18, operating under part 135 on a sightseeing flight, crashed near a waterfall in the Waipio Valley of the Kohala Mountains on the island of Hawaii. After filing a VFR flight plan, the pilot had departed Hilo International Airport for Maui. The pilot entered a closed canyon and ultimately impacted the canyon wall 600 to 900 feet below the rim. The pilot and 10 passengers were fatally injured, and the airplane was destroyed by impact forces and postcrash fire. The NTSB determined that the probable cause of the accident was the pilot's improper decision to maneuver with insufficient altitude in a canyon area.

On April 22, 1992, a Beechcraft E–18S operating on a VFR air tour flight collided with mountainous terrain in Haleakala National Park in an area where fog had reduced visibility around the mountain top. The FAA had provided a full weather briefing to the pilot, including an advisory that VFR flight was not recommended over the interior sections of all islands, and a forecast indicating isolated areas of 3 miles visibility due to haze and moderate rainshowers. The aircraft was destroyed, and the pilot and eight passengers were killed. Weather reports and witness statements indicate that IMC existed in the area at the time of the accident. The NTSB determined that the probable cause of this accident was the pilot's decision to continue visual flight into IMC that obscured rising mountainous terrain and his failure to use properly available navigational information to remain clear of the island.

On September 16, 1992, an Aerospatiale AS–350B departed on a sightseeing flight even though adverse weather conditions including thunderstorms, rainshowers, and poor visibility were reported. A witness reported rainshowers and mountain obscuration about the time of the accident. He stated that he saw a helicopter flying in and out of clouds and stated that he could not understand why a helicopter would be flying so close to the mountains given the adverse weather conditions. The NTSB determined that a probable cause of the accident, which involved seven fatalities, was the pilot's inflight decision to continue VFR flight into adverse weather conditions. A factor in the accident was the pilot's inability to see and avoid the mountainous terrain due to the thunderstorms.

Briefing Passengers

Section 7 contains the requirement that passengers be briefed (in addition to §§ 91.102 and 135.117) before takeoff for an air tour flight with a flight segment beyond the ocean shore of any island. The briefing shall include information on water ditching procedures, use of personal flotation gear, and emergency egress from the aircraft. The PIC must orally brief passengers, distribute written instructions, or ensure that passengers have been briefed on emergency procedures. This provision is necessary in light of the flotation equipment requirements set forth in this emergency rule.

Related Rulemaking

This SFAR is an emergency final rule addressing air tour operations in the State of Hawaii in light of the increasing frequency of accidents. The FAA is considering other rulemaking action to address noise and other issues concerning sightseeing overflights in national parks and other scenic areas. On March 17, 1994, the FAA and the National Park Service (NPS) issued a joint advance notice of proposed rulemaking (ANPRM) (59 FR 12740) seeking public comment on general policy and specific recommendations for voluntary and regulatory actions to address the effects of aircraft overflights on national parks. The FAA is currently analyzing comments submitted in response to the ANPRM. This SFAR is an emergency rule and not a final action in response to the joint FAA/NPS ANPRM.

The promulgation of requirements and restrictions in this SFAR, including the minimum flight altitude restriction, does not preclude the FAA from revisiting the issues addressed in the SFAR. As mentioned above, changes to this SFAR may be necessitated after a review of the comments received from

related regulatory proposals. Additionally, this SFAR may be amended after consideration of the comments received on this SFAR.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et. seq.).

Regulatory Evaluation Summary

Introduction

Changes to Federal regulations are required to undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. With respect to this rule, the FAA has determined that it: (1) is "a significant regulatory action" as defined in the Executive Order; (2) is significant as defined in the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) will have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. Therefore, a full regulatory analysis, which includes the identification and evaluation of cost-reducing alternatives to this rule, has been prepared. This regulatory evaluation summary presents a concise analysis of the costs and benefits associated with the final rule that amends the Federal Aviation Regulations by establishing certain operational, procedural, and equipment requirements for air tour operators in the State of Hawaii.

Costs

The FAA estimates the total cost of the SFAR to be about $2.0 million, with a present value of $1.8 million (7 percent discount rate), from 1995 to 1997. The FAA assumes that air tour operators will elect to have lifevests on board the helicopter rather than installing external flotation gear because the costs are dramatically lower. This present value cost includes the cost of about $190,000 to provide lifevests on the affected helicopters; the potential of $1.6 million in lost revenue to air tour operators due to minimum flight altitudes; and $10,000 for the development of a helicopter performance plan. Other requirements of the rule—helicopter operating limitations and passenger briefing—will impose little if any cost.

Benefits

Since 1982, Hawaiian air tour operators have experienced 15 accidents involving at least one serious injury or fatality where the lack of flotation gear, flying into bad weather, or flying low has played a role in the cause of the accident. These accidents have resulted in 48 fatalities and 30 injuries (16 serious and 14 minor). This evaluation divides these accidents into three categories: (1) Inadvertent air tour helicopter water landings without flotation gear; (2) air tour helicopter accidents related to flying into bad weather or flying low; and, (3) air tour airplane accidents related to flying into bad weather or flying low.

The potential benefits of preventing all potential sightseeing accidents of a similar nature over the next 3 years totals $36.8 million, with a present value of about $32.2 million, of which $13.7 million would be for the prevention of helicopter accidents and $18.6 million would be for the prevention of airplane accidents.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) helps to assure that Federal regulations do not overly burden small businesses, small nonprofit organizations, and airports located in small cities. The RFA requires regulatory agencies to review rules that may have "a significant economic impact on a substantial number of small entities." A substantial number of small entities, defined by FAA Order 2100.14A, "Regulatory Flexibility Criteria and Guidance," is more than one-third, but not less than 11, of the small entities subject to the existing rule. To determine if the rule will impose a significant cost impact on these small entities, the annualized cost must not exceed the annualized cost threshold established in FAA Order 2100.14A.

Small entities potentially affected by the final rule are small on-demand air tour operators in Hawaii using helicopter and fixed-wing aircraft. The FAA assumes that air tour operators will elect to have lifevests on board the helicopter rather than installing external flotation gear because the costs are dramatically lower. The FAA estimates that the annualized cost associated with acquiring lifevests for all helicopter occupants is about $127 per seat. This estimate incorporates the cost of purchasing the lifevests, maintenance, and the associated weight penalty. Also, the FAA estimates that the annualized cost of the 1,500-foot minimum altitude requirement is about $989 per seat. This cost incorporates the estimated lost profits for days when tour operations are prohibited due to inclement weather.

FAA Order 2100.14A defines small on-demand operators as those operating with a fleet of nine or fewer aircraft, which includes 37 (7 fixed-wing and 30 helicopter) of the 38 air tour operators in Hawaii. The annualized cost threshold for small operators is $4,700 in 1994 dollars. The FAA has determined that the final rule will have a significant economic effect on 6 of the 7 fixed-wing air tour operators and 25 of the 30 affected helicopter air tour operators. The final rule will impose costs greater than the annualized cost threshold of $4,700 for all affected operators except for six of the small air tour operators.

Due to the significant economic impact of the final rule on a substantial number of small entities, the FAA examined an alternative minimum altitude requirement for the affected operators. The FAA evaluated various minimum altitude requirements including 500, 800, and 1,000 feet so as to reduce the annualized cost of the final rule on individual operators. The FAA has determined that a minimum altitude requirement of 500 feet will be necessary to lower the annualized cost of the final rule below the $4,700 threshold for most air tour operators. (Under § 91.155, pilots conducting VFR flights more than 1,200 feet above the surface in class G airspace must maintain a 500-foot vertical clearance below the clouds. Pilots operating VFR in class G airspace 1,200 feet or less above the surface must remain clear of clouds.) The FAA estimates that the annualized cost of a 500-foot minimum altitude requirement is about $81 per seat. Including the cost of the lifevests, the FAA has determined that the combined cost of the lifevests and the alternative requirement for a 500-foot minimum altitude will lower the annualized cost below the $4,700 threshold for all fixed-wing air tour operators and 26 of the 30 helicopter air tour operators.

The FAA has evaluated the level of safety for the 1,500-foot minimum altitude requirement in the final rule and that provided by a 500-foot minimum altitude requirement. Although the 1,500-foot minimum altitude requirement has a significant economic impact on a substantial number of small entities, it provides

operational safety superior to that provided by a 500-foot minimum altitude and is necessary in the public interest. With the 1,500-foot minimum altitude, fixed-wing aircraft and helicopters have a longer power off gliding time, and the pilots are better able to select a suitable landing area in the event of a power failure. Hawaii's unique topography often complicates access to suitable emergency landing areas. The air tour accidents in Hawaii have been characterized by insufficient time for pilots to locate suitable landing areas after engine power loss or other problems leading to accidents. Therefore, the additional safety margins at the 1,500-foot minimum altitude should be provided when conducting passenger flights.

International Trade Impact Analysis

The SFAR will not have any impact on international trade because the affected operators do not compete with foreign operators. The SFAR will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services to the United States.

Good Cause for Immediate Adoption

The FAA is implementing this emergency final rule due to the recent escalation of fatal air tour accidents. Despite voluntary measures, the cooperation of the Hawaii air tour operators, and the FAA's inspections, the accident data show that voluntary measures and existing regulations are insufficient to ensure safe air tour operations in Hawaii. The recent accidents discussed above indicate an urgent safety problem that cannot be adequately addressed solely by enforcement of existing regulations. For this reason, I find that notice and public procedure are impracticable and contrary to the public interest. However, interested persons are invited to submit such comments as they desire regarding this SFAR. Communications should identify the docket number and be submitted in triplicate to the Rules Docket address noted above. All communications received on or before the close of the comment period will be considered by the Administrator, and this SFAR may be changed in light of the comments received. All comments will be available, both before and after the closing dates for comments, in the Rules Docket for examination by interested parties.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with the Standards and Recommended Practices of the International Civil Aviation Organization to the maximum extent practicable. The FAA is not aware of any differences that this amendment will present.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this regulation will have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered significant under DOT Regulatory Policies and Procedures. A final regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects

14 CFR Part 91

Aircraft, Airmen, Aviation safety

14 CFR Part 135

Air taxi, Aircraft, Airmen, Aviation safety

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 91 and 135 of the Federal Aviation Regulations (14 CFR parts 91 and 135) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

2. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g).

3. In parts 91 and 135, Special Federal Aviation Regulation No. 71, the text of which will appear at the beginning of part 91, is added to read as follows:

SFAR No. 71—Special Operating Rules for Air Tour Operators in the State of Hawaii

Section 1. Applicability. This Special Federal Aviation Regulation prescribes operating rules for airplane and helicopter visual flight rules air tour flights conducted in the State of Hawaii under parts 91 and 135 of the Federal Aviation Regulations. This rule does not apply to flights conducted in gliders or hot air balloons.

Section 2. Definitions. For the purposes of this SFAR:

"Air tour" means any sightseeing flight conducted under visual flight rules in an airplane or helicopter for compensation or hire.

"Air tour operator" means any person who conducts an air tour.

Section 3. Helicopter flotation equipment. No person may conduct an air tour in Hawaii in a single-engine helicopter beyond the shore of any island, regardless of whether the helicopter is within gliding distance of the shore, unless:

(a) The helicopter is amphibious or is equipped with floats adequate to accomplish a safe emergency ditching and approved flotation gear is easily accessible for each occupant; or

(b) Each person on board the helicopter is wearing approved flotation gear.

Section 4. Helicopter performance plan. Each operator must complete a performance plan before each helicopter air tour flight. The performance plan must be based on the information in the Rotorcraft Flight Manual (RFM), considering the maximum density altitude for which the operation is

planned for the flight to determine the following:

(a) Maximum gross weight and center of gravity (CG) limitations for hovering in ground effect;

(b) Maximum gross weight and CG limitations for hovering out of ground effect; and,

(c) Maximum combination of weight, altitude, and temperature for which height-velocity information in the RFM. is valid.

The pilot in command (PIC) must comply with the performance plan.

Section 5. Helicopter operating limitations. Except for approach to and transition from a hover, the PIC shall operate the helicopter at a combination of height and forward speed (including hover) that would permit a safe landing in event of engine power loss, in accordance with the height-speed envelope for that helicopter under current weight and aircraft altitude.

Section 6. Minimum flight altitudes. Except when necessary for takeoff and landing, or operating in compliance with an air traffic control clearance, or as otherwise authorized by the Administrator, no person may conduct an air tour in Hawaii:

(a) Below an altitude of 1,500 feet above the surface over all areas of the State of Hawaii, and,

(b) Closer than 1,500 feet to any person or property; or,

(c) Below any altitude prescribed by federal statute or regulation.

Section 7. Passenger briefing. Before takeoff, each PIC of an air tour flight of Hawaii with a flight segment beyond the ocean shore of any island shall ensure that each passenger has been briefed on the following, in addition to requirements set forth in § 91.107 or 135.117:

(a) Water ditching procedures;

(b) Use of required flotation equipment; and

(c) Emergency egress from the aircraft in event of a water landing.'

Section 8. Termination date. This Special Federal Aviation Regulation expires on October 26, 1997.

Issued in Washington, DC, on September 22, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–23840 Filed 9–22–94; 11:42 am]

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federal register

Monday
September 26, 1994

Part VI

The President

Proclamation 6723—Italian-American Heritage and Culture Month, 1994

Federal Register
Vol. 59, No. 185
Monday, September 26, 1994

Presidential Documents

Title 3—

The President

Proclamation 6723 of September 22, 1994

Italian-American Heritage and Culture Month, 1994

By the President of the United States of America

A Proclamation

Between 1880 and 1914, nearly four million people left the familiar comfort and sweep of Italy to make a new life for themselves and their families in the unknown land of America. Young and old, rich and poor, Italian immigrants saw in the shores of the United States a symbol of hope and opportunity. Many came with little money and few possessions. Many carried only a love of freedom, a belief in hard work, and an abiding faith in the importance of family.

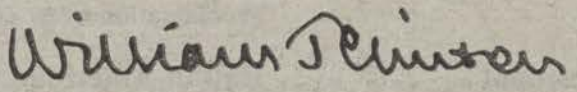
Bound together by a shared heritage and by a common experience as newcomers in a new culture, the Italian-American community drew its strength from within. During work days that often began before dawn and ended well after dusk, Italian Americans relied on the knowledge and determination that continue to drive our economy today. Working side by side when times were tight, family members depended on one another to survive and, ultimately, to prosper. And their success was apparent in the bright faces of the countless sons and daughters who followed their example and went on to raise families of their own. Today, third and fourth generations of Italian Americans maintain that tradition of community, looking back on the courage of their ancestors with heartfelt gratitude and unparalleled pride.

Italian Americans have indeed worked hard to build upon their rich heritage over the last century, and the fruits of their labors are evident in every aspect of our national life. From politics to business to academia, their diverse talents and skills have sustained our society and enriched our daily lives. This month, we pause to recognize their many extraordinary accomplishments. More than that, we reflect on the unique cultural heritage that, a hundred years ago, helped to turn the dream of a distant land into the reality of an American home.

The Congress, by House Joint Resolution 175 (Public Law No. 103–309), has designated October 1994, as "Italian-American Heritage and Culture Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the month of October 1994 as Italian-American Heritage and Culture Month. I call upon the people of the United States to observe this occasion with appropriate programs ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of September, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.



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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 3474/P.L. 103–325

Riegle Community Development and Regulatory Improvement Act of 1994 (Sept. 23, 1994; 108 Stat. 2160; 137 pages)

Last List September 23, 1994

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–022–00001–2)	$5.00	Jan. 1, 1994
3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
4	(869–022–00003–9)	5.50	Jan. 1, 1994
5 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

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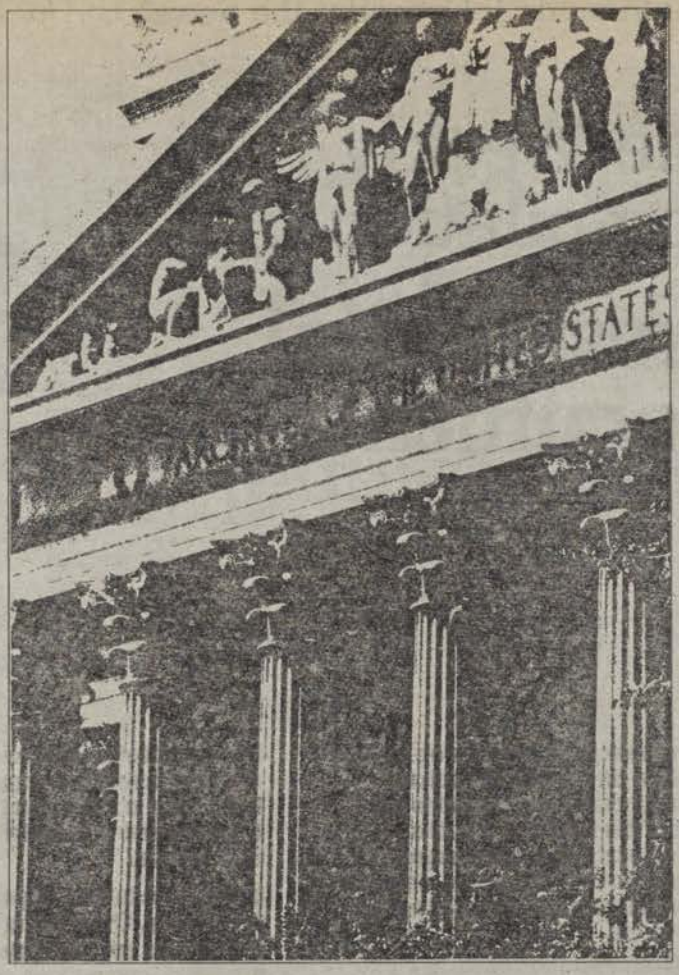

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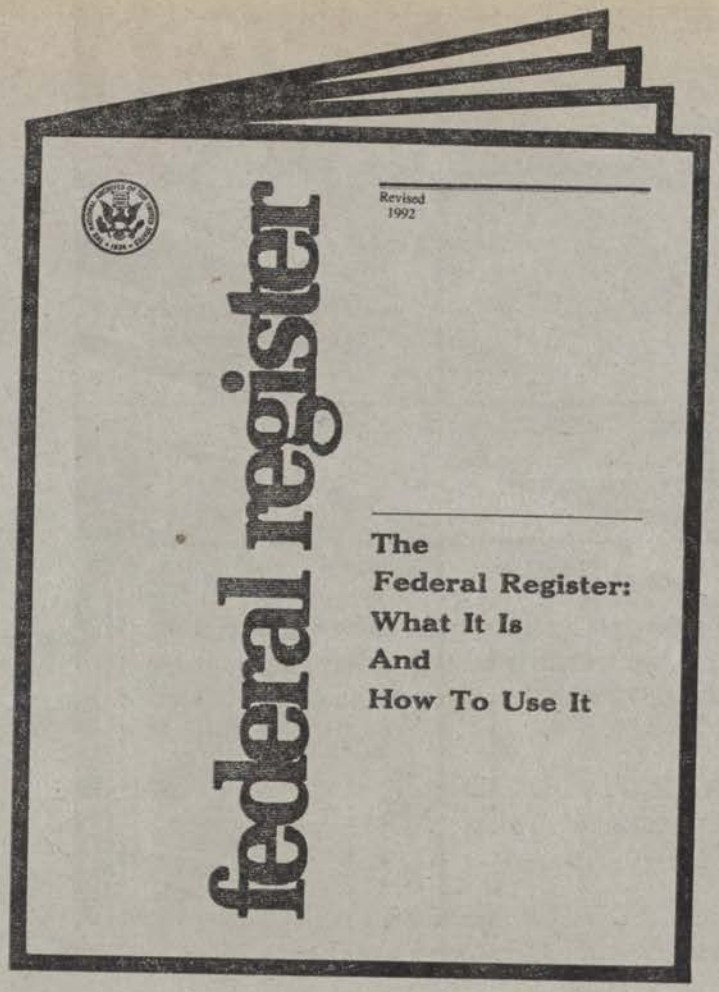

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